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PART I

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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MEMORANDUM OF SEPTEMBER 20, 1973

[Presidential Determination No. 74–4]

Presidential Determination—Peru

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, September 20, 1973.

In accordance with the recommendation in the Acting Secretary's memorandum of July 20, 1973, I hereby determine, pursuant to Section 4 of the Foreign Military Sales Act, as amended, that the extension of credit to the Government of Peru, in connection with the sale of F–5 military aircraft, is important to the national security of the United States.

You are hereby requested on my behalf to report this determination to the Congress as required by law.

This determination shall be published in the FEDERAL REGISTER.

Richard Nixon

[FR Doc.73–21488 Filed 10–4–73;2:25 pm]

Rules and Regulations

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER A—GENERAL RULES

[Docket No. R-438; Order No. 494]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Fully Automated Computer Regulatory Information System

SEPTEMBER 26, 1973.

On April 13, 1972, the Commission issued a notice of proposed rulemaking wherein it proposed the development of a fully automated computer regulatory information system. The rulemaking stated that the Commission will undertake a series of rulemaking actions in the above entitled matter for the purpose of developing a fully automated computer regulatory information system. The fully automated information system will be prescribed in aid of the Commission's duties and responsibilities arising inter alia under the provisions of the Federal Power Act, 16 U.S.C. 791a et seq., and the Natural Gas Act, 15 U.S.C. 717 et seq.

Comments were invited from interested parties to be submitted by May 16, 1972 and was later extended by the Commission to September 18, 1972. Sixty-four responses[1] to the Commission's notice generally concurred with the proposed development but suggested amplification and clarification of a number of matters and recommended a close and continuing interaction with affected industrial, association, and state entities.

The majority expressed concern over the impact of the system on company operations, anticipated costs, data security, and hard copy elimination. We have considered carefully all of these comments and have adopted several of the proposed recommendations.

As was stated in the notice of proposed rulemaking, "before any existing form of data reporting requirement is changed, the Commission proposes to give appropriate further public notice." In addition, the Commission has established a central point of contact and coordination within the Office of the Executive Director of this Commission to ensure continued coordination and liaison with industry, associations, other government agencies, and interested persons who have or may express interest in the development plans, progress and status of the fully automated computer regulatory information system.

The actions to be taken will be phased. Generally speaking, the various Federal Power Commission reporting procedures and report forms will be adapted to computer regulatory format with accounting and other data gathering requirements to follow. Transitional periods will be used wherein existing and proposed computer reporting techniques will be observed, and thereafter, existing processes will be eliminated.

This order is intended to initiate this overall system. The following portions of this order describe the new reporting arrangement and the computer concepts involved. Appendix A lists the existing Federal Power Commission "Approved Forms" which will be affected.[2] However, it should be noted that before any existing form or data reporting requirement is changed, the Commission proposes to give appropriate further public notice. The Commission will take the following steps to implement the system:

1. Establish and operate a centralized electronic information data bank of all Federal Power Commission regulatory and administrative information;

2. Restructure the current methods of reporting data to the Commission by using Electronic Data Processing (EDP) technology;

3. Develop the Commission's regulatory computer applications (programs) utilizing the centralized data bank;

4. Apply to Commission operations the latest technology of computers, terminals, and data communications; and

5. Issue Agency EDP standards related to respondent's submission of data.

The system will permit the Commission and its staff access to process data via terminals or other devices for the express purpose of regulation as provided in the Federal Power Act, 16 U.S.C. 791a, the Natural Gas Act, 15 U.S.C. 717 et seq., the National Environmental Policy Act of 1969, 42 U.S.C. 4321, and all other applicable laws and requirements.

Outline of the General Plan

The major feature of the fully automated computer regulatory information system plan is a centralized, electronic information data bank which will contain all Federal Power Commission regulatory and administrative information. The Commission, having concluded that a central electronic data bank will best serve its needs, presently envisions that the bank may contain the following six major data files:

1. *Corporate, financial, and economic information file.* This file will include, but not limited to, data concerning the comparative balance sheet, utility plant and accumulated depreciation summaries, statement of income, retained earnings, statement of changes in financial position, and related supporting schedules; and principal officers, points of contact, and corporate structure. In addition, this file will be structured to contain general economic and industry data which affects the regulated industries.

2. *Electric operating information file.* This file will consist of data concerning electric generating plant details, electric sales and purchases, high voltage transmission and substation capabilities and costs, projected facility construction, existing as well as proposed pooling relationships, and related technical data.

3. *The gas operating information file.* This section of the data bank will include details on producer and transmission natural gas plant facilities, sales, purchases, contracts, reservoirs, reserves, underground storage, and other technical considerations of significance.

4. *Environmental information file.* This file will include data on current and proposed operations relating to fuel, air and water quality, plant related recreational facilities, existing as well as projected operations of the electric power and natural gas industries with regard to the implementation of environmental requirements.

5. *The legal information data file.* This file will contain information relating to cases and dockets stemming from Commission activities, e.g., proposed projects, certification, rates, licensing and status of current cases.

6. *Internal administrative information file.* This file will consist of data required within the Commission to support its own operations and will include data concerning personnel, payroll, projects status and other miscellaneous data.

The establishment of this central data bank will include the conversion of existing data at the Commission so that all data can be accessable by a computer software system (data management system). The objectives of the central electronic data bank design are set forth in the order herein adopted.

In developing regulatory computer applications utilizing the centralized data bank, the staff of the Commission will employ one central information system and unified data files for the development of computer applications. Early planning of new staff projects and assignments will include the use of this

[1] See Attachment 1.

[2] See 18 CFR Parts 131, 141, 250, 260.

central information system for implementation of the tasks. All regulatory activities will be evaluated under a continuing management program to allow computer processing of data and information retrieval. The resulting computer applications will be integrated into the general EDP management plan of the Commission.

The Commission contemplates the issuance of FPC agency EDP standards. This will be in accordance with the requirements of Public Law 89-306, Office of Management and Budget (OMB) Circular No. A-86, and other relevant Federal standards. The Commission intends to issue references to Federal EDP standards and to promulgate FPC agency standards consisting of data elements and codes for respondents use when submitting data to the Commission.

TRANSITIONAL ARRANGEMENTS

This program is to prepare for specific implementation of this plan and give all affected persons an opportunity to develop a course of action designed to comply with such action. The Commission directs attention to Appendix A attached hereto and the listed "Approved Forms" under the Federal Power and Natural Gas Acts. It is contemplated that a parallel reporting procedure will be used during transitional periods. The first format will be as defined in the existing rules and regulations of the Commission whereas the second will be in electronic data processing compatible format based on data elements or as defined in rulemakings currently under consideration by the Commission. Detailed formats with reporting schedules will also be proposed and made available through additional rulemaking actions.

The data which is essential for the Commission's activities originate from several sources. These include, but are not limited to, numerous public use forms, thousands of filings and applications annually from industry, response to specific Commission orders and data received from other Federal agencies or governmental bodies. As a consequence, the volume of data collected and processed each year is extremely large, resulting in millions of data items processed by the staff. Much of this information is operating information about the utilities (i.e., statistical and technical information). Segments of these data will continue to be interchanged or made available to other Federal agencies and interested parties in computer media for their own use.

This program as contemplated by the Commission, provides a common data base and a new data element and data code concept. The concept is composed of a standard data vocabulary with each data word, called a "data element", having a single unique definition and abbreviation; a homogeneous list of subunits or values called "data items"; logical coding structures or codes; and "attribute data elements" for reference purposes.

This Data Element and Code standardization program provides the basis for the centralized data bank prescribed herein. The following illustrations examine more specifically what the components of the standard data vocabulary mean:

1. A *Data Item* is the expression of a particular fact of a data element, e.g., "120,550" may be a data item of the data element named "Name Plate Rating of a generating unit."

A *Data Item Abbreviation* is an abbreviated form of the data item name.

A *Data Item Definition* is a statement of the meaning of a data item.

A *Data Item Name* is a name used to identify a data item.

2. A *Data Element* is a basic unit of identifiable and definable information. A data element occupies the space provided by fields on a record or blocks on a form. It has an identifying name and value or values for expressing a specific fact, e.g., plant name, plant number, date of installation, mailing address, type of gas, depth of reservoir, and maximum nitrogen percent.

A *Data Element Abbreviation* is an abbreviate form of the data element name, e.g., PLTNAME, MAXNIT percent.

A *Data Element Definition* is a statement of meaning of the data element name, e.g., maximum nitrogen percent—is the maximum percentage of nitrogen allowable in gas as provided for in a contract.

A *Data Element Name* is a name used to identify a data element, e.g., plant name, maximum nitrogen percent.

3. A *Data Code* is a coded representative used to identify a data item. Usually codes are designed according to established rules and criteria, and only by chance form a phonetic word or phrase.

4. *Attribute Data Element*—A data element that is used to qualify or quantify another data element, e.g., "Name plate rating of a generating unit" and "mailing address" would be attribute data elements in a generating plant file where the primary element(s) is/are used to identify the generating plant.

5. *Composite Data Elements (Data Chains)* is a data element that has an ordered string of related data items that can be treated as a group or singly, e.g., a data element named "Date of Installation" could have the data items; "Year", "Month", and "Day of Month."

6. *Primary Data Elements*—A data element or elements that is/are the subject of a record. Usually the other elements, called attribute data elements, qualify or quantify the primary data (e.g., in a generating plant field, the elements) that is/are used to identify the unit in a plant are primary; other elements such as "Date of Installation" and "Mailing Address" are attribute data elements.

These definitions are part of the Federal Informaton Processing Standards (FIPS) as delineated in FIPS PUB-20 entitled—Guidelines for Describing Information Interchange Formats—Glossary of Terms—Appendix A.

The Commission finds

(1) The notice and opportunity to participate in this rulemaking proceeding with respect to the matters presently before this Commission, through the submission, in writing, of data, views, comments, and suggestions in the manner described above, are consistent and in accordance with the procedural requirements prescribed by 5 U.S.C. 553.

(2) The amendments to Part 2 in Chapter I, Title 18 of the Code of Federal Regulations, herein prescribed, are necessary and appropriate for the administration of the Federal Power Act, Natural Gas Act, the National Environmental Policy Act and all other applicable laws and requirements.

(3) Since the revisions made herein do not represent substantial departures from the amendments as proposed or impose additional burdens on persons subject to these regulations, further notice prior to adoption is unnecessary.

(4) The action taken herein constitutes a statement of policy; hence, compliance with the effective date requirements of 5 U.S.C. 553 (d) is not necessary.

The Commission, acting pursuant to the provisions of the Federal Power Act, 16 U.S.C. 791a, et seq., (41 Stat. 1063-1077; 46 Stat. 797-798; 49 Stat. 838-863; 61 Stat. 501; 62 Stat. 275-276; 67 Stat. 461; 72 Stat. 944; 82 Stat. 617-618) the Natural Gas Act, 15 U.S.C. 717 et seq., (52 Stat. 821-833; 56 Stat. 83-84; 61 Stat. 459; 68 Stat. 36; 76 Stat. 72) and all other applicable laws and requirements, orders:

(A) Part 2, General Policy and Interpretations, Chapter I, Title 18 of the Code of Federal Regulations, is amended by adding a new § 2.90 to read as follows:

§ 2.90 Automated computer regulatory information system.

(a) By this order the Federal Power Commission declares the policy to establish a fully automated computer regulatory information system, which when developed and fully operative will assist the Commission in carrying out its responsibilities imposed by the Federal Power Act and the Natural Gas Act and provide prompt and ready access to industry and the public at large of data contained in a central electronic data bank designed for such system. The central electronic data bank will be designed with a view to:

(1) Further eliminate duplication in information now collected;

(2) Provide the speed of access which is required by public interest priorities and available through full computer technology;

(3) Facilitate further evaluation and analysis of all data;

(4) Facilitate reduction of the quantity of existing manual files; and,

(5) Accommodate the development of new regulatory techniques.

(b) The Commission hereby establishes a central point of contact and coordination within the Office of the

Executive Director of the Commission to ensure continued coordination and liaison with industry, industry associations, and all other persons or entities who have or may express interest in the development plans, progress and status of the fully automated computer regulatory information system to be established pursuant to this order.

(c) The development of the automatic computer regulatory information system will be effected through the adoption of phased rulemaking orders wherein the various Federal Power Commission reporting procedures and report forms will be restructured to computer regulatory form with accounting and other data gathering requirements to conform therein. Transitional periods will be provided during which existing and proposed computer reporting techniques will be observed, and thereafter, inconsistent existing processes will be eliminated.

(1) In restructuring the current methods of reporting data to the Commission by using EDP technology, the Commission contemplates the redesign and consolidation of all existing "hard copy" public use forms, eliminating redundancies and providing clarifying instructions. EDP reporting of public use form information will be replaced by the submission of individual data elements within a general data element and code scheme which will be compatible with EDP media and data communications technology. It is anticipated that this major systems revision will result in the reduction of the total number of data items currently transmitted to the Commission by the respondents. This order does not affect any other rules or rulemakings regarding the submission of data in EDP format issued prior to this order.

(2) The Commission contemplates the issuance of FPC agency EDP standards to be employed in the said system which shall be in accordance with the requirements of Public Law 89-306, Office of Management and Budget (OMB) Circular No. A-86, and other applicable Federal standards. The Commission intends to issue references to Federal EDP standards and to promulgate FPC agency standards consisting of data elements and codes for use by persons submitting data to the Commission.

(3) Inasmuch as many utilities and natural gas companies reporting data to the Commission also report similar data to State or other governmental agencies, the Commission will coordinate this program plan with the appropriate State and other governmental agencies so as to avoid undue burden on the reporting companies. Any redesign of existing public use forms will also be coordinated with appropriate state and other governmental agencies.

(d) Upon establishment of a fully developed automated computer regulatory information system, the Commission will operate a centralized electronic information data bank of all Federal Power Commission regulatory and administrative information.

(1) In applying the technology of computers, terminals and data communications to Commission operations, the Commission will install the necessary terminals and communication devices in each of its organizational entities to facilitate the use of the central data bank. The installation of this equipment will be in accordance with the Commission's EDP management plan and under the direction of the Commission's EDP unit. The EDP unit will be the focal point of new computer applications within the Commission as well as maintaining state-of-the-art knowledge of computers, terminals, communications and software as applicable to regulatory functions. The Commission has concluded previously that cost of development and operation of a fully automated computer regulatory information system is a cost effective mode of operations for the conduct of Commission activities.

(2) Even though the consolidated public use forms will be maintained in the Office of Public Information, the same data will be available on high speed microfilm readers located in OPI, making specific information available rapidly. Hard copy printout will also be available.

The system will permit the Commission and its staff access to process data via terminals or other devices for the express purpose of regulation as provided in the Federal Power Act, 16 U.S.C. 4321, and all other applicable laws and requirements.

This Statement of Policy may be amended from time to time as circumstances require.

(B) The amendment adopted herein shall be effective upon issuance of this order.

(C) The Secretary shall cause prompt publications of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

131.1	Certificate of service.
131.2	Application for license.
131.3	Certificate of organization.
131.4	Certificate of exhibits.
131.5	Application for license for transmission lines only.
131.6	Application for license for minor project having installed capacity of 2,000 horsepower or less.
131.10	Application for preliminary permit.
131.20	Application for approval of transfer of license.
131.30	Application for amendment of license.
131.40	Balance sheet.
131.41	Classifications of utility plant and reserves applicable to utility plant.
131.42	Comparative income statement.
131.43	Report of securities issued.
131.50	Certificate of notification.
131.51	Notice of succession in ownership or operation.
131.52	Certificate of concurrence.
131.53	Notice of cancellation.
131.60	Verification of application.
131.70	Form of application by State and municipal licensees for exemption from payment of annual charges.
141.1	Form No. 1, Annual report for electric utilities, licensees and others (Class A and Class B).
141.2	Form No. 1-F; Annual Report for public utilities and licensees, (Class C and Class D).
141.7	Form 1-M. Annual Report for municipal electric utilities having annual electric operating revenues of $250,000 or more.
141.11	Form No. 6, Initial cost statement for licensed projects.
141.12	Form No. 7, Statement of actual legitimate original cost of construction.
141.13	Form No. 9, Annual Report Form for Licensees of Privately Owned Major Projects (Utility and Industrial).
141.14	Form No. 80, Licensed Projects Recreation Report.
141.21	Form No. 3, Typical net monthly bills.
141.22	Form No. 4, Monthly report of generation of electric energy consumption and stocks of fuel (multiple plant utilities).
141.23	Form No. 4A, Monthly report of generation of electric energy consumption and stocks of fuel (single plant utilities).
141.24	Form No. 4B, Monthly report of industrial generation of electric energy.
141.25	Form No. 5, Monthly statement of electric operating revenue and income.
141.26	Form No. 13, Summary for National Electric Rate Book.
141.27	Form No. 82, Report of changes in retail rates.
141.51	Form No. 12, Power system statements for Class I and II systems and for Class IV and V systems where requested.
141.52	Form No. 12A, Power system statement for Class III, IV, and V systems.
141.53	Form No. 12B, Industrial electric generating capacity (detailed information).
141.54	Form No. 12C, Industrial electric generating capacity (limited information).
141.55	Form 12-D, Power system statement for Class III systems having annual energy requirements of less than 5,000,000 kwh and Class IV and V systems where requested.
141.56	Form No. 12E, Monthly load statement.
141.57	Form No. 12F, Power line and generating plant data.
141.58	Report of impending emergencies, load reductions, and/or service interruptions in bulk electric power supply and related power supply facilities.
141.59	Form No. 67, Steam-Electric Plant Air and Water Quality Control Data.
141.60	Form No. 237A (Coal) and Form No. 237B (Oil) Weekly Fuel Emergency Report.
141.61	Form No. 423, Monthly report of cost and quality of fuel for steam-electric plant.
141.100	General requirements for annual reports to stockholders and others.
141.200	Original cost statement of utility property.

(Source 18 CFR Parts 131, 141)

250.1	Certificate of service.
250.2	Form of proposed cancellation of tariff or part thereof (see § 154.64).
250.3	Form of proposed cancellation or termination of contract or part thereof (see § 154.64).
205.4	Form of certificate of adoption (see § 154.65).
250.5	Form of contract summary to be filed by all applicants for certificates of public convenience and necessity, including successors in interest.
250.6	Form of application to be filed by distributor under section 7(a), seeking gas service of not more than 2,000 Mcf per day (3d year of operation) for a single community (see § 156.3(d) of this chapter).
250.7	Form of contract summary for abandonment applications.
250.8	Summary to accompany rate schedule filed by an assignee as successor in interest.
250.9	Form of notice of proposed cancellation or termination of independent producer rate schedule or part thereof, where no new schedule is to be filed in its place.
250.10	Application for small producer exemption.
250.11	Annual statement for independent producers holding small producers exemptions.
250.12	Escrow agreement.
260.1	Form No. 2, Annual report for natural gas companies (Class A and Class B).
260.2	Form No. 2-A, Annual report for natural gas companies (Class C and Class D).
260.3	Form No. 11, Natural gas pipeline company monthly statement.
260.4	Form No. 770.14, Annual Report for Importers and Exporters of Natural Gas.
260.5	Form No. 301-A, Statement of sales and revenues of independent producers.
260.6	Form No. 301-B, Statement of sales and revenues of independent producers.
260.7	Form No. 15, Annual report of gas supply for certain natural gas pipelines.
260.7a	Form No. 15-A, Annual report of gas supply for certain natural gas companies exempt from the requirements of paragraph (b) of § 260.7.
260.8	System flow diagrams.
260.9	Report by natural gas pipeline companies on service interruptions occurring on the pipeline system.
260.11	Form No. 8, report of gas stored underground.
260.100	General requirements for annual reports to stockholders and others.
260.200	Original cost statement of utility property.

(SOURCE: 18 CFR Parts 250, 260)

ATTACHMENT 1

ENTITIES RESPONDING TO R-438

American Electric Power
American Gas Association
Arizona Public Service Company
Carolina Power and Light Company
Central Hudson Gas and Electric Corporation
Central Telephone and Utilities Corporation
Cities Service Oil Company
Colorado Interstate Gas Company
Columbia Gas Transmission Corporation
Columbus and Southern Ohio Electric Company
Commonwealth Edison Company
Consolidated Edison Company of New York, Inc.
Consumers Power Company
Continental Oil Company
Edison Electric Institute
Florida Power Corporation
General Public Utilities Corporation
Gulf Oil Corporation
Idaho Power Company
Illinois Power Company
Independent Natural Gas Association of America
Iowa-Illinois Gas and Electric Company
Kansas City Power and Light Company
Lone Star Gas Company
Middle South Services, Inc.
Mobil Oil Corporation
NARUC Subcommittee of Staff Experts on Accounting (2)
National Electric Reliability Council
New England Electric System
Northern Natural Gas Company
Northern States Power Company
Oklahoma Gas and Electric Company
Pacific Gas and Electric Company
Pacific Power and Light Company
Pennsylvania Power and Light Company
Philadelphia Electric Company
Phillips Petroleum Company
Public Service Company of Colorado
Public Service Company of Oklahoma
Public Service Indiana
Public Service Electric and Gas Company (NJ)
Salt River Project
San Diego Gas and Electric Company
Shell Oil Company
Southern California Edison Company
Southern Services, Inc.
Southern Union Gas Company
State of Wisconsin Public Service Commission
Tennessee Gas Pipeline Company
Texaco, Inc.
Texas Eastern Transmission Corporation
The Cincinnati Gas and Electric Company
The Cleveland Electric Illuminating Company
The Detroit Edison Company
The State Corporation Commission of Kansas
Transcontinental Gas Pipe Line Corporation
United States Senate—Honorable Lee Metcalf
Utah Power and Light Company
Washington Utilities and Transportation Commission
West Texas Utilities Company
Wisconsin Electric Power Company
Wisconsin Power and Light Company
Wisconsin Public Service Corporation

[FR Doc.73-21404 Filed 10-5-73;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that as a result of a comprehensive review of Schedule C positions in the Office of Economic Opportunity the Schedule C authorities covering 34 positions are revoked.

Effective October 9, 1973, § 213.3373 is amended as set out below.

§ 213.3373 Office of Economic Opportunity.

(a) *Office of the Director.* * * *

(3) One Special Assistant to the Director and one Confidential Assistant to the Special Assistant.

(4) [Revoked]

* * * * *

(6) One Confidential Secretary and one Private Secretary to the Director.

* * * * *

(7) [Revoked]

(8) [Revoked]

* * * * *

(14) [Revoked]

* * * * *

(16) [Revoked]

(17) [Revoked]

(18) [Revoked]

(19) One Policy Advisor in the Office of Planning and Program Analysis.

* * * * *

(22) [Revoked]

* * * * *

(30) [Revoked]

(31) [Revoked]

* * * * *

(c) *Office of the Assistant Director for Operations.* * * *

(2) One Confidential Staff Assistant to the Assistant Director.

* * * * *

(d) *Office of the Associate Director for Program Review.* (1) [Revoked]

* * * * *

(7) [Revoked]

(8) One Planning and Review Advisor to the Associate Director.

* * * * *

(e) *Office of the Assistant Director for Congressional and Public Affairs.* * * *

(3) [Revoked]

(4) One Confidential Assistant to the Associate Director for Congressional Relations.

* * * * *

(7) One Congressional Relations Specialist.

* * * * *

(g) *Office of the Associate Director for Legal Services.* (1) One Confidential Staff Assistant to the Associate Director.

* * * * *

(h) [Revoked]

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION

[SEAL] JAMES C. SPRY,

Executive Assistant to the Commissioners.

[FR Doc.73-21324 Filed 10-5-73;8:45 am]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE, DEPARTMENT OF AGRICULTURE

PART 29—TOBACCO INSPECTION

Nonquota Maryland Broadleaf Tobacco; Identification and Certification

Notice was published in the FEDERAL REGISTER issue of July 18, 1973 (38 FR 19127), that the Department is giving consideration to the issuance of regulations governing the identification and certification of nonquota Maryland Broadleaf tobacco, U.S. type 32, produced and marketed in quota areas.

Statement of consideration. Historically, Maryland Broadleaf tobacco, U.S. type 32, was generally produced under marketing quotas. This limited its production and sales without penalty to those growers issued acreage allotments under the quota system. Penalty assessments were made for all production outside quota allocation. Referendums are held in tobacco-growing areas to determine whether growers favor or disfavor marketing quotas. Beginning with the 1966 crop, growers of type 32 tobacco have consistently disapproved use of the quota system. The lifting of controls and penalties governing the production of type 32 tobacco resulted in increased production of this tobacco in the burley and flue-cured areas. Both burley and flue-cured are subject to quotas.

Official standard grades are in effect for the inspection and grading of all major tobacco types produced in the United States and Puerto Rico. About 95 percent of this production is sold at designated auction markets where inspection is mandatory. This tobacco is displayed for sale in warehouses in individual lots, piles, baskets, or sheets for inspection and grading. The ramaining percentage is largely cigar leaf, most of which is purchased at the farm and the rest is marketed through tobacco cooperatives. For this remaining percentage, inspection service is provided upon request on a permissive basis.

The production of Maryland Broadleaf, U.S. type 32, tobacco grown in quota areas increased greatly in 1972. Requests from producers and producers' agents for inspection and type classification services increased accordingly. Past certifications show the need for establishing procedures to follow in certifying such tobacco as to type, and to use in distinguishing type 32 tobacco from quota tobacco.

These regulations establish procedures to accomplish proper type classification and certification through the use of the applicable U.S. official standards after examination of a crop-lot arrangement of the tobacco. They apply to mandatory and permissive inspection as authorized or required under Sections 5 and 6 of The Tobacco Inspection Act.

Interested persons were given 30 days in which to submit written data, views, or arguments regarding the proposed regulations. Six comments were received. Four of these comments generally supported the proposed regulations but suggested certain clairifying changes. Two of the comments received generally opposed the proposed regulations, particularly the crop-lot concept of display for inspection and the use of Official Standard Grades for Maryland Broadleaf Tobacco in classifying nonquota tobacco.

Crop-lot display refers to the assemblage of individual lots representing the season's production of each type or kind of nonquota tobacco produced on an individual farm. It is preferable for the inspector to have access to the grower's entire production of each kind or type of nonquota tobacco in order to make an accurate type determination applicable to the crop-lot or to individual lots, as the case may be.

The other comment opposed the use of Official Standard Grades for Maryland Broadleaf Tobacco, U.S. type 32, in classifying nonquota tobacco produced in a geographical area where quota tobacco is grown and marketed. The production and marketing area does not necessarily determine the type of tobacco produced. Instead, the type determination is based on the characteristics and quality factors of the tobacco displayed for inspection and certification.

After consideration of all relevant facts and exceptions the proposed regulations are hereby adopted with the following changes:

(1) Rewording to clarify the definition of crop-lot, § 29.9203.

(2) In § 29.9221 and in § 29.9233, the period when these services will be made available is changed to the 90-day period beginning February 15 of each calendar year.

(3) In § 29.9241 additional wording is supplied to further clarify the crop-lot arrangement of display.

The rules as set forth below.

Effective date.—These regulations shall become effective November 8, 1973.

The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D.C., this 3d day of October 1973.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

1. Part 29 is revised by designating §§ 29.9201 through 29.9400 as Subpart F—Policy Statement and Regulations Governing the Identification and Certification of Nonquota Maryland Tobacco, U.S. Type 32, Produced and Marketed in a Quota Area.

2. Subpart F reads as follows:

Subpart F—Policy Statement and Regulations Governing the Identification and Certification of Nonquota Maryland Broadleaf Tobacco, U.S. Type 32, Produced and Marketed in a Quota Area

DEFINITIONS

POLICY STATEMENT

ADMINISTRATION

FEES AND CHARGES

INSPECTING AND CERTIFYING PROCEDURES

PRECLUSION

AUTHORITY: Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 et seq.)

DEFINITIONS

§ 29.9201 Terms defined.

As used in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.9202 Certification.

The documentation of type, grade, class, weight, or other tobacco characteristics as required in § 29.9263.

§ 29.9203 Crop-lot.

The assemblage of individual lots representing the season's production of each kind or type of nonquota tobacco produced on an individual farm.

§ 29.9204 Identification number (farm serial number).

The serial number assigned to an individual farm by the appropriate office of the Agricultural Stabilization and Conservation Service.

§ 29.9205 Inspection.

The examination by an inspector of a lot or crop-lot of tobacco to make determinations necessary for proper certification.

§ 29.9206 Mandatory inspection.

Mandatory inspection consists of inspecting and certifying tobacco under the act on designated markets before it is offered for sale at auction.

§ 29.9207 Nonquota tobacco.

Any kind or type of tobacco not subject to production and/or marketing limitations or restrictions under regulations issued by the Agricultural Stabilization and Conservation Service.

§ 29.9208 Permissive inspection.

Permissive inspection consists of inspecting and certificating tobacco, upon the request of an interested party, on a cost basis as set forth in §§ 29.9251 and 29.9252.

§ 29.9209 Receiving stations.

Approved tobacco auction warehouses on designated markets.

§ 29.9210 Symbol "M–32".

The designation used to identify Maryland Broadleaf tobacco, U.S. Type 32.

POLICY STATEMENT

§ 29.9221 Policy statement.

Nonquota Maryland tobacco, U.S. Type 32, is being produced and marketed in the burley and flue-cured areas. Both burley and flue-cured tobaccos are produced under the quota system. The official standard grades developed for all major tobacco types produced in the United States and Puerto Rico are adequate for inspection and grading at the market centers. However, these standards do not provide adequate procedure for certifying nonquota tobacco produced and marketed in quota areas. Accordingly, the regulations in this subpart contain a procedure to follow in the certification of nonquota Maryland tobacco, type 32, grown and marketed outside of the State of Maryland. Certification services shall be made available to an interested party or his authorized agent following receipt of appropriate application. These services will be provided at approved receiving stations during a 90-day period beginning February 15 of each calendar year. This will allow producers of such tobacco in a quota area adequate time to bring the tobacco to the normal stage of cure and moisture content before certification. Determinations with respect to certifications on nonquota type 32 tobacco shall be based on the Official Standard Grades for Maryland Broadleaf Tobacco, U.S. Type 32.

ADMINISTRATION

§ 29.9231 Administration.

The Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, is charged with the supervision of the Division and the performance of all duties assigned thereto in the administration of the act. The conduct of all services and the licensing or employment of inspection/grading/sampling personnel under these regulations shall be accomplished without discrimination as to race, color, creed, sex, or national origin. Information concerning such administration may be obtained from the Director.

§ 29.9232 Where inspection and certification are available.

Nonquota tobacco may be inspected and certified by class or type, upon request of an interested party, when the tobacco is displayed at approved receiving stations under conditions that permit of its proper examination and where there is a sufficient volume of work to justify the stationing of an inspector.

§ 29.9233 When certification will be made.

Certification services for the nonquota tobacco shall be made available during a 90-day period beginning February 15 of each calendar year. This section shall not affect provisions of existing cooperative agreements with the various tobacco producing states or state agencies.

§ 29.9234 Who may obtain inspection and certification.

Inspection and certification of nonquota tobacco may be requested by an interested party, or his authorized agent, by filing an application in accordance with §§ 29.9236 and 29.9237.

§ 29.9235 Responsibilities of interested parties.

Any interested party requesting type certification of nonquota tobacco produced in a quota area, shall obtain from the appropriate county office of the Agricultural Stabilization and Conservation Service a certificate showing the acreage of nonquota tobacco grown on each affected farm and the identification number. It shall also be the responsibility of the person or persons or agents desiring type certification of this tobacco to: (a) Make available to the official inspector any or all information required by the inspector for completion of the Tobacco Classification Certificate, (b) display the tobacco in crop-lot arrangement on an approved tobacco auction floor, and (c) surrender to the inspector at time of certification a copy of the ASCS certificate.

§ 29.9236 How to make application.

Application for inspection and certification by class or type of nonquota tobacco shall be made to the Division the office of inspection, or as the case may be, to an official inspector, not less than 14 days before the date of certification. The application shall be in writing and signed by the applicant or applicants.

§ 29.9237 Form of application.

Application for inspection and certification of class or type of nonquota tobacco shall include the following information: (a) The date of the application; (b) the designation of the tobacco and the crop year of its production; (c) the name and post-office address of the applicant and of the person, if any, making the application as agent; (d) the financial interest of the applicant in the tobacco; (e) the exact nature of the service desired as (1) inspection and grading, and/or (2) inspection and certification by class or type; (f) a statement that the tobacco (1) is in commerce, as defined in the act, or (2) is to be inspected and certified in connection with its entering such commerce; and (g) such other necessary information as the Director may require.

§ 29.9238 When application deemed filed.

An application shall be deemed filed when delivered to the Division, the office of inspection, or according to the nature of the service requested, to an official inspector. When an application is filed, the date and time of filing shall be recorded by the official receiving it.

§ 29.9239 When application may be rejected.

An application may be rejected (a) for noncompliance with the act or the regulations in this subpart, or (b) when it is not practicable to provide the service. All expenses incurred in connection with an application rejected for noncompliance with the act or the regulations in this subpart shall be paid by the applicant as provided in § 29.124 of Subpart B of this part.

§ 29.9240 When application may be withdrawn.

An application may be withdrawn at any time before the requested service is rendered upon payment of expenses incurred in connection therewith as provided in § 29.124 of Subpart B of this part.

§ 29.9241 Accessibility of tobacco.

All tobacco to be inspected and certified by class or type upon application shall be made accessible by the applicant for proper examination, including any necessary display in proper light for determination of grade, class, type, or other characteristics or for drawing of samples. Each crop-lot shall be displayed at an approved receiving station in a continuous and orderly sequence with no other quota, nonquota, or other producer's tobacco in between. The baskets or sheets shall be arranged in rows 18 inches apart with the leaves of adjacent baskets or sheets not touching within the rows. Coverings shall be removed by the applicant in such manner as may be prescribed by the inspector.

FEES AND CHARGES

§ 29.9251 Fees for inspection and certification services performed under agreement.

The fees to be charged and collected for service performed under an agreement shall be those provided for by such agreement.

§ 29.9252 Fees and charges for inspection and certification services other than under an agreement.

Fees and charges for inspection and certification services at receiving points shall comprise the cost of travel expenses, per diem allowances, and salaries. Charges as computed in accordance with this part shall be increased by 8 percent to cover administrative expenses.

INSPECTING AND CERTIFYING PROCEDURES

§ 29.9261 Procedure to be followed.

In permissive or mandatory inspections and certifications of nonquota Maryland tobacco the inspector shall use the Official Standard Grades for Maryland Broadleaf Tobacco, U.S. Type 32, to determine whether the crop-lot can or cannot be classified as and certified to be type 32. When the inspector determines that each individual pile, basket, or sheet in the crop-lot can be graded in one of the standard grades for type 32, he shall certificate the entire crop-lot to be that type. If the inspector determines that each individual pile, basket, or sheet in the crop-lot cannot be graded in one of the standard grades for type 32, he shall then establish which official standard grades are applicable and certify each pile, basket, or sheet to show the appropriate class and type.

§ 29.9262 Kinds of certificates.

A "Tobacco Classification Certificate" will be issued upon request of an interested party for the nonquota tobacco certified under mandatory or permissive inspection. The Tobacco Classification Certificate will be supplied by the inspection office. In addition to this certificate a basket ticket shall be provided by the interested party, or his agent or warehouseman, for each individual pile, basket, or sheet of tobacco in the crop-lot.

§ 29.9263 Tobacco Classification Certificate.

Each tobacco classification certificate shall show (a) the caption "Tobacco Classification Certificate"; (b) whether it is an original, first second, or other copy; (c) the number of the certificate; (d) the identification number; (e) the location of the tobacco at the time of inspection and certification; (f) the date of inspection and certification; (g) the class or type of the tobacco; (h) the number of baskets, piles, or sheets in the crop-lot; (i) the weight of the crop-lot; (j) the signature of the official inspector; also such additional information as may be required by the Director.

§ 29.9264 Basket ticket.

A basket ticket shall consist of a Tobacco Inspection Certificate made and issued in combination with an auction warehouse ticket in a form approved by the Director. The commissioned agent or warehouseman shall show (a) the producer's name; (b) the identification number; (c) the weight of the individual lot; also such additional information as may be required by the Director. The tobacco inspector shall then complete the basket ticket by entering the special symbol "M-32" for all tobacco determined to be Maryland Broadleaf, U.S. Type 32. If the inspector determines the lot cannot be graded in one of the official type 32 grades, he shall enter the appropriate grade or type designation, then initial and date.

§ 29.9265 Forms.

Each certificate issued under this regulation shall (a) show that it was issued under The Tobacco Inspection Act; (b) be in a form approved for the purpose by the Director, and (c) embody within its written or printed terms, with respect to the particular kind of service, all applicable information required by § 29.9263. Each certificate may also contain any information, not inconsistent with the act and the regulations in this subpart, as may be approved or required by the Director. The Director may, in his discretion, specify or limit the period in which a certificate shall be valid.

§ 29.9266 Disposition of certificate.

Distribution of the Tobacco Classification Certificate shall be limited to the provisions of this section. The original certificate and one copy shall be delivered or mailed to the applicant or his agent. One copy and the copy of the ASCS certificate shall be forwarded by the inspector to the Division or office of inspection.

§ 29.9267 Disposition of ticket.

One copy of the basket ticket shall be attached to, or placed on, the individual lot and all copies of such ticket shall become null and void when such identifying copy is removed from the lot. When and as requested by the Director, one copy of such ticket, showing (a) the certification of class, type, or grade; (b) the weight and other identification; and (c) the details of the sale at auction, shall be delivered by the interested party, or his agent or warehouseman, to the Division or the head inspector of the market.

§ 29.9268 Changes or alterations.

No change or alteration shall be made, in the weight or other identification of the lot, on a basket ticket or the Tobacco Classification Certificate after the certification of class, type, or grade by an official inspector, and any such change or alteration shall constitute and be construed as a change or alteration in the certificate issued or authorized under the act.

PRECLUSION

§ 29.9281 Preclusion.

The provisions of this subpart shall not preclude the application of other administrative remedies or the institution of criminal proceedings in appropriate cases as provided by the act.

(49 Stat. 734; 7 U.S.C. 511m)

[FR Doc.73-21331 Filed 10-5-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 13230; Amdt. 39-1734]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls Royce Dart Engines

Amendment 39-1479 (37 FR 13084) AD 72-14-6, applicable to Rolls Royce Dart Model 542-4, -4K, -10, -10J, and -10K engines, requires replacement or incorporation of Modification 1455 on first stage impellers that are not so modified before the accumulation of 11,000 flights on an impeller and the replacement of those impellers incorporating Modification 1455 before the accumulation of 11,000 flights after the incorporation of that modification.

Amendment 39-1491 (37 FR 14757) AD 72-16-5, as amended by Amendment 39-1568 (37 FR 25221), applicable to Rolls Royce Dart Series Models 506, 510, 511, 514, 525 through 529, 531, 532, and 542 engines and all variants, requires the replacement of certain other impellers at intervals specified in the AD. In effect, both AD 72-14-6 and AD 72-16-5 specify service life limits for certain specified impellers installed on Rolls Royce Dart Series engines.

After issuing Amendments 39-1568 and 39-1479, the FAA has determined that service life limits are necessary for Rolls Royce Dart Series engine impellers not covered by those AD's (first stage impellers incorporating Modification 797, not open bore processed installed on all engines covered by those AD's) and that a reduction is also necessary with respect to the service life limits specified in those AD's for other impellers (first stage impellers incorporating Modification 1455, installed on all engines covered by those AD's, and first stage impellers incorporating pre Modification 1455 modifications that are installed on Model 542-4 and -10 engines). These determinations are based on investigation of reported service failures, laboratory examination of impellers which have exhibited cracking of the bore, and electron fractography striation count of failed and other cracked impellers.

Therefore AD's 72-16-5 and 72-14-6 are being superseded with a new AD which would continue in effect the provisions of those AD's with service life limit reductions for certain of the impellers covered by those AD's and the addition of service life limits for certain impellers not covered by those AD's. The new AD requires initial compliance within 150 flights after the effective date of the AD or before the accumulation of the number of flights specified in the AD as a life limit, whichever occurs later. However, the AD is not intended to relieve an operator of compliance with AD's 72-16-5 and 72-14-6 if compliance with those AD's would have been required at or before some certain time prior to the accumulation of 150 flights after the effective date of the new AD. Accordingly, a

provision is included in the new AD to require, for a particular impeller, continued compliance with the provisions of AD's 72-16-5 and 72-14-6 within the first 150 flights after the effective date of the new AD following which the two older AD's are superseded with respect to that impeller.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

ROLLS ROYCE (1971) LTD. Applies to Rolls Royce Dart Series Models 506, 510, 511, 514, 525, 526, 527, 528, 529, 531, 532, 542-4 and 542-10 engines and all variants.

Compliance is required as indicated unless already accomplished.

To prevent engine failures resulting from fatigue cracks of the impellers specified in the following table accomplish the following:

(a) Within the next 150 flights after the effective date of this AD or before the accumulation of the number of flights specified in the table below, for the applicable impeller, whichever occurs later, and thereafter at intervals not to exceed the number of flights specified in the table below, replace the applicable impellers when they are installed on the corresponding engines listed in the table below with impellers having the same part number or a part number approved for that engine which have not exceeded their life limits.

DART ENGINE, LIFE LIMITS IN NUMBER OF FLIGHTS FOR FIRST AND SECOND STAGE IMPELLERS

Dart engines series	Impellers											
	Modification 797—*open bore processed		Modification 797—*not open bore processed		Modification pre-797		Modification 1455		Modification premodification 1455		Modification 1475	
	Impeller stage		Impeller stage		Impeller stage		Impeller stage		Impeller stage		Impeller stage	
	1	2	1	2	1	2	1	2	1	2	1	2
506	10,500	6,000	11,250	9,000	X	4,500	11,250 since incorporation of modification 1455.	14,000 since incorporation of modification 1455.	NA	NA	NA	NA
510	10,500	6,000	11,250	9,000	X	4,500	----do----	----do----	NA	NA	NA	NA
511	10,500	6,000	11,250	9,000	X	4,500	----do----	----do----	NA	NA	NA	NA
514	10,500	6,000	11,250	9,000	X	4,500	----do----	----do----	NA	NA	NA	NA
525 through 529	9,000	11,000	9,000	14,000	X	4,500	9,000 since incorporation of modification 1455.	X	NA	NA	NA	X
531 and 532	9,000	11,000	9,000	14,000	X	4,500	----do----	X	NA	NA	NA	X
542-4 and -10	NA	NA	9,000	12,000	NA	NA	----do----	16,000 since incorporation of modification 1455.	9,000	12,000	NA	14,500

NOTES:
X=Life limits not covered by this AD. Information relating to these impellers is contained in manufacturer's appropriate overhaul manual.
NA=Not applicable to specific impeller.
*=For purposes of this AD "Open Bore Processed" means that the impeller during an overhaul subsequent to the incorporation of Modification 797, has been stripped and anodized or anodized, without the impeller bore being fitted with blanks, or that leakage past the blanks has occurred due to an improper fitting of the blanks.

(b) Continued compliance with the provisions of AD 72-16-5 and AD 72-14-6 is required during the accumulation of the first 150 flights on an impeller after the effective date of this AD.

(c) For the purpose of complying with this AD a flight shall constitute an engine operating sequence consisting of an engine start, takeoff operation, landing, and engine shutdown. The number of flights may be determined by actual count or, subject to approval by the FAA assigned-maintenance inspector, by dividing the impeller time in service by the operator's fleet average time per flight.

This AD supersedes AD 72-16-5 and AD 72-14-6 with respect to a particular impeller to which paragraph (b) of this AD is no longer applicable.

This amendment becomes effective October 15, 1973.

NOTE.—Rolls Royce Dart Alert Service Bulletin No. Da 72-A401, Revision 1, dated April 1973, covers this same subject.

Issued in Washington, D.C., on September 26, 1973.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.73-21409 Filed 10-5-73;8:45 am]

[Airspace Docket No. 72-NE-21]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINTS, CONTROLLED AIRSPACE AND REPORTING POINTS

Designation of Control Zone and Alteration of Transition Area

On page 28521 of the FEDERAL REGISTER dated December 27, 1972, the Federal Aviation Administration published a notice of proposed rulemaking which would designate a Hartford-Brainard, Connecticut, control zone and alter the Hartford, Connecticut, transition area (37 FR 2207).

Interested parties were given thirty (30) days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

Subsequent to the publication of the notice of proposed rulemaking, it was determined that the designation of a new separate Hartford-Brainard control zone would result in serious charting difficulties due to its proximity to the existing East Hartford control zone. Because of this, it has been determined that these two control zones should be combined into one new control zone which will be designated as the Hartford, Connecticut, control zone. This new control zone will be identical in size to the combined existing East Hartford control zone and the proposed Hartford-Brainard control zone and there would be no alteration to their noncommon boundaries. In view of the fact that this change would not result in any increase in the controlled airspace in this area, it is considered that the change is minor in nature. The alteration to the Hartford 700-foot transition area is being adopted as originally proposed in the notice.

Since this action effects no substantive change to the rule as initially proposed, further notice thereon is unnecessary.

In view of the foregoing the proposed regulations, as modified above, are hereby adopted effective 0901 G.m.t., December 3, 1973, as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the existing description of the East Hartford, Connecticut, control zone in its entirety and insert the following as the new East Hartford, Connecticut, control zone:

Within a 5-mile radius of Hartford-Brainard Airport (lat. 41°44'10" N., long 72°39'03" W.); within a 5-mile radius of Rentschler

Field, East Hartford, Connecticut (lat. 41°45'10" N., long. 72°37'25" W.); within 3.5 miles each side of the Brainard (ADQ) NDB (lat. 41°42'51" N., long. 72°36'48" W.) 130° bearing from the NDB extending from the 5-mile-radius zone to 7 miles southeast of the NDB; within 4.5 miles each side of the Hartford, Connecticut VORTAC 327° radial extending from the 5-mile-radius zone to the VORTAC; within 2 miles each side of the Hartford VOR 334° radial extending from the 5-mile-radius zone to the VOR; within 2 miles each side of the 182° bearing from the Brainard NDB extending from the 5-mile-radius zone to 7 miles south of the NDB and within 2 miles each side of the Hartford VOR 327° radial extending from the 5-mile-radius zone to the VOR. This control zone is effective from 0700 to 2300 hours local time daily, and during specific dates and times established in advance by a notice to airmen.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Hartford, Connecticut, 700-foot transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the center, lat. 41°56'19" N., long. 72°41'00" W. of Bradley International Airport, Windsor Locks, Conn.; within 4.5 miles Northwest and 15.5 miles Southeast of the Bradley International Airport ILS localizer Southwest course, extending from the 11.5-mile-radius area to 18.5 miles Southwest of the OM; within a 9-mile radius of the center, 41°45'10" N., 72°37'25" W., of Rentschler Field, East Hartford, Conn.; within 3.5 miles each side of a 130° bearing from the Brainard NDB extending from the NDB to 11.5 miles Southeast of the NDB; within 2 miles each side of the centerline of Runway 4 extended 10 miles from the end of the Runway; within 2 miles each side of the centerline of Runway 22 extended 10 miles from the end of the runway; within 2 miles each side of the Hartford VOR 154° radial extending from the 9-mile-radius area to 8 miles Southeast of the VORTAC; within 2 miles each side of the Hartford VORTAC 130° and 310° radials extending from the 9-mile-radius area to 6 miles Southeast of the VORTAC; and within 5 miles Northwest and 5 miles Southeast of the Hartford VOR 223° radial extending from the VOR to a point 15 miles Southwest.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).).

Issued in Burlington, Massachusetts, on September 21, 1973.

FERRIS J. HOWLAND,
Director, New England Region.

[FR Doc.73-21410 Filed 10-5-73;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATION COMMISSION

[Docket No. 19685; FCC 73-998]

PART 15—RADIO FREQUENCY DEVICES

Report and Order Pertaining to Emission Limitations for Certain Field Disturbance Sensors

1. February 14, 1973, the Commission adopted a notice of proposed rulemaking in the subject proceeding.[1] The date for receiving comments closed on March 28, 1973 and for reply comments on April 6, 1973.

2. This proceeding was initiated in response to a petition for Rule Making filed by the Emergency Products Corporation (EPC)[2] to modify the emission limitations for spurious radiation of field disturbance sensors. The petitioner stated that the Commission's Rules which require spurious emissions to be suppressed at least 50 dB below the level of the fundamental were impractical and to construct an equipment to these standards would lead to marketing a device which would not be economically viable.

3. In the argument, petitioner alleged that many of the devices which were currently certified did not, in fact, comply with the Commission's technical standard for spurious emissions (§ 15.309 (b)). He further stated that the less stringent requirements requested for spurious emission levels would establish a standard in the Commission's rules which could be reasonably met by most manufacturers within the present state of the art of microwave power generation techniques.

4. The Commission pointed out in the notice of proposed rulemaking that a number of manufacturers had submitted measurements showing compliance with spurious limits of § 15.309 (50 dB below the fundamental) which apparently does not support petitioner's argument that there is no practical way of complying with the present requirements. In its comment, Omni Spectra Incorporated, disputes the petitioner's contention that the present rules are not practical, and goes on to say that filters can economically be produced in large quantities to meet the applicable spurious emission levels set out in § 15.309. However, no information is provided about the technical characteristics nor about the cost of such filters. In the absence of such supporting data the Commission is reluctant to give a great deal of weight to the Omni Spectra argument.

5. The Central Station Industry Frequency Advisory Committee (CSIFAC) and the Security Equipment Industry Association (SEIA) state that they cannot support a suppression requirement of 40 dB for a spurious level and recommend that the requirement be reduced to 30 dB below the fundamental. They further state that the 2500 uV/m spurious level proposed by the Commission is acceptable. The Johnson Service Company, Emergency Products Corp. and Solfan concur in the requirement that spurious emissions be limited to 2500 uV/m at 100 feet.

6. These comments point up a curious oversight in the Commission proposal since 2500 uV/m is precisely 40 dB below 250,000 uV/m, the maximum level of radiation permitted on the fundamental. The 40 dB suppression requirement for harmonic and other spurious emissions is redundant in view of the alternative proposal that suppression below 2500 uV/m is not required. Recognizing this, we have eliminated the 40 dB suppression requirement and have retained only the absolute limit of 2500 uV/m in the rules adopted herein. However, for reasons discussed below, this change is made only for harmonically related emissions, and not for other spurious emissions.

7. AT&T agreed with the 2500 uV/m level for harmonically related spurious emissions; however it recommends that, for spurious other than harmonics, the original 50 dB suppression requirement be retained. These sensors, AT&T argues, will be operating near many microwave communications links and the more stringent spurious requirement will reduce the probability of interference to such systems. No reply comments were received in opposition to the AT&T proposal. The Commission has therefore restricted the relaxation in emission limits to apply only to emissions on harmonics of the fundamental, and is retaining the tighter specification, the 50 dB suppression requirement now in the rules, for emissions that are not harmonically related to the fundamental.

8. The Johnson Service Company also recommends that the 2500 uV/m spurious level proposed by the Commission for equipments operating at 10,525 and 22,125 MHz be applied to equipments operating at 2450 MHz and 5800 MHz. This recommended reduction in spurious limitations is based on the similarity in application of these devices to those operating at the higher frequencies and the lower field strength set out for devices operating at 2450 MHz and 5800 MHz. The above reasons are not sufficient of themselves to permit the Commission to act positively on this recommendation. We require information describing in detail the technical aspects of the problem, the effect of the higher level of spurious emissions on present radio services and a statement with supporting comments describing why such a rule change would be in the public interest. This information is not available to the Commission at this time and consequently we are not able to accommodate this recommendation within the scope of this proceeding.

NONCOMPLYING UNITS

9. Omni Spectra stated that they have reason to believe the allegations made by EPC concerning noncomplying devices are valid and recommends that the Commission determine that manufacturers are producing devices which meet the certification requirements. The Commission indicated in the Notice of Proposed Rule Making that the matter of noncomplying devices would be investigated separately and not included within the scope of this proceeding. However, because this matter has been the subject of further comment we feel it appropriate to discuss our plans for this investigation. Our measurement facilities have been extended to 40 GHz by the procurement of additional measurement equipment. Our Laboratory Division has prepared a procedure for testing field disturbance sensors. We are currently testing a field disturbance sensor to evaluate

[1] Docket 19685, notice of proposed rulemaking adopted February 14, 1973 (38 FR 5262, 39 FCC 2nd 713).

[2] RM-2000, Filed: June 6, 1972.

our test procedure and measurement equipment. After the completion of these evaluation tests, field disturbance sensors currently being marketed will be examined for compliance with the rules in Subpart F of Part 15.

10. Authority for the amendments set out in the attached Appendix is contained in sections 4(i), 302, 303(c), (g) and (r) of the Communications Act of 1934, as amended.

11. In view of the foregoing: *It is ordered,* Effective November 9, 1973, that Part 15 of the FCC Rules is amended as set forth below, attached hereto, and that this proceeding is terminated in all respects.

(Secs. 4, 303, 48 Stat., as amended; Sec. 302, 82 Stat.; 1066, 1082, 290; 47 U.S.C. 154, 302, 303.)

Adopted September 26, 1973.

Released October 2, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[3]
VINCENT J. MULLINS,
Acting Secretary.

Part 15 of Chapter I of Title 47 of the Code of Federal Regulation is amended as follows:

Section 15.309 is amended by revising paragraph (b) and adding a new (c) to read as follows:

§ 15.309 Emission limitations.

(a) For a field disturbance sensor operating within any frequency band listed in Section 15.307, the field strength of emissions on the fundamental shall be limited in accordance with the following:

Frequency (MHz):	*Field strength*
915	50,000 uV/m at 100 ft.
2450	
5800	250,000 uV/m at 100 ft.
10,525	
22,125	

(b) Spurious emissions from sensors operating in bands centered on 915, 2,450 and 5,800 MHz, including emissions on harmonics shall be suppressed at least 50 dB below the level of the fundamental; however, suppression below 15 microvolts per meter at 100 feet is not required.

(c) Harmonic emissions from sensors operating in bands centered on 10,525 and 22,125 MHz shall not exceed a level of 2,500 microvolts per meter at 100 ft. Spurious emissions except harmonics shall be suppressed at least 50 dB below the level of the fundamental; however, suppression below 15 microvolts per meter at 100 feet is not required.

NOTE.—For pulsed operation, measured field strength shall be determined from the averaged absolute voltage during a 0.1 second interval when field strength is at its maximum value. Below 1000 MHz, the measurement bandwidth shall comply with the requirements set out in the American National Standards Institute Specifications C63.2–1963 and C63.3–1964. Above 1000 MHz the measurement bandwidth shall be 5 MHz.

[FR Doc.73–21350 Filed 10–5–73;8:45 am]

[3] Commissioner Robert E. Lee absent; Commissioner Johnson issuing separate statement; filed as part of the original document.

[Docket 19721; FCC 73–1001]

USE OF VEHICULAR RADIO UNITS TO ACT AS MOBILE REPEATER STATIONS

Report and Order

1. On April 16, 1973, the Commission issued a notice of inquiry and notice of proposed rulemaking in the above-entitled matter which was published in the FEDERAL REGISTER on April 20, 1973 (38 FR 76). It was proposed to amend §§ 89.12, 89.307, 89.357 and 91.7 of the rules to permit the use of vehicular radio units as mobile repeater stations to relay communications from hand-carried transceivers to associated base stations in the Forestry Conservation and Power Radio Services. The Notice of Inquiry stated that the Commission wished to take comprehensive action in this matter and asked for additional comments as to whether the other land mobile services governed by Parts 89, 91, and 93 of the Commission's Rules should be granted this capability. Comments were also requested on whether the mobile repeater function should be limited to licensees assigned more than a single frequency so that it would not be necessary to assign an additional frequency solely for this usage.

2. The Commission proposed this mobile repeater capability to augment the low power of hand-held transceivers which often does not permit direct talk-back capability to base stations. This has been shown to be an effective function in services which are already authorized this capability—the Police and Fire Radio Services, and also in the Business Radio Service for those frequencies in the 460–470 MHz band set aside for use by the central station protection industry. These operations were permitted in order to overcome shielding effects of buildings and other obstacles and they enable operators of low-powered hand-carried transceivers immediately to transmit important messages to their headquarters without interruption of the communication flow.

3. Comments were received from the National Association of Business and Educational Radio, Inc. (NABER), the American Association of State Highway Officials (AASHO), Sub-Committee on Communications and Electronic Applications; the Central Committee on Communications Facilities of the American Petroleum Institute (API); the American Telephone and Telegraph Company (AT&T); the Special Industrial Radio Service Association, Inc. (SIRSA); the Utilities Telecommunications Council (UTC); Forestry Conservation Communications Association (FCCA); the California State Communications Division; Forest Industries Telecommunications (FIT); M & R Timber, Inc.; and the Detroit News. No reply comments were filed. All comments submitted have been carefully considered, as will be discussed herein.

4. The basic objective of the proposed rule amendment—to extend mobile repeater capability to the Forestry Conservation and Power Radio Services—was unanimously supported by the comments. The view of Forest Industries Telecommunications was typical;

> In some services, this relay capability is vital to the activities performed while away from the mobile unit. The speed with which an emergency message can be relayed for the purpose of securing immediate help in time of need is most vital. Therefore, those services that have such urgent requirements should have this capability available to them.

Similarly, the comments supported extending the rule change to permit vehicular units to function as mobile repeater stations in all land mobile services. Here, the consensus is that allowing this capability will contribute to greater efficiency of operation.

5. The Commission believes, as noted throughout the comments and from our observation of the practical application of the mobile repeater technique in services where it is already authorized, that the rules should be amended essentially as proposed. Thus, we have determined that it will promote the public interest to adopt rules for mobile repeater capability in land mobile services governed by Parts 89, 91, and 93.

6. We have considered, too, the issue concerning whether a licensee should be assigned a separate frequency for mobile repeater operations. While there were no objections to the general proposition of expanded mobile repeater station capability in the Industrial and Land Transportation Radio Services, SIRSA, API and AT&T suggest limiting eligibility to those licensees who are assigned more than a single frequency. As the Central Committee of the API stated:

> In view of the heavy frequency congestion on many frequencies allocated to the Special Industrial and Business Radio Services, however, it is not believed that vehicular repeaters should be authorized on frequencies below 450 MHz.

NABER, UTC, and FIT, on the other hand, request that this capability be made available to all who demonstrate a need for it.

7. After weighing the arguments, the Commission has decided to permit this capability in all services covered by Parts 89, 91, and 93 which comprise the Public Safety, Industrial and Land Transportation Radio Services, even in those situations where the licensee is normally authorized a single frequency. However, it appears that the frequency congestion problem which exists in the Special Industrial and Business Radio Service below 450 MHz requires a special provision. In these services the Commission will only make the frequencies allocated for low power (3 watts) operations available to users assigned frequencies below 450 MHz. These frequencies have been selected because they are allocated for low power operations and because they may be used extensively in the same general geographic area. With reference to the other radio services the Commission would point out that these rule changes

do not provide any protection for the low power portable transceivers from interference caused by other equipment which may operate on the same frequency. We, therefore, urge persons who feel they require this capability to seek authorization on low-power frequencies, where available. We further urge licensees authorized more than one frequency, to use the frequencies already authorized rather than seek additional frequencies to obtain this talk-back capability.

8. In view of the foregoing, the Commission concludes that the public interest will be served by amending the rules to permit vehicular units, authorized under Parts 89, 91, and 93 to be used as repeater stations.

9. *Accordingly, it is ordered,* Pursuant to the authority contained in Section 4(i) and 303 of the Communications Act of 1934, as amended, that Parts 89, 91, and 93 of the Commission's Rules are amended effective November 9, 1973, as set forth below.

10. *It is further ordered,* That the proceedings in Docket 19721 are hereby terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Adopted September 26, 1973.

Released October 3, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] VINCENT J. MULLINS, *Acting Secretary.*

Parts 89, 91, and 93 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 89—PUBLIC SAFETY RADIO SERVICES

1. Section 89.3(b) is amended by adding a new definition in alphabetical order to read as follows:

§ 89.3 Definitions.

* * * * *

(b) * * *

Mobile repeater station. A mobile station in the mobile services authorized to retransmit automatically on a mobile service frequency, communications originated by hand-carried mobile units or by other mobile or base stations directed to such hand-carried units.

* * * * *

2. Section 89.12 is amended by adding new paragraph (e) to read:

§ 89.12 Relay, repeater, and control stations.

* * * * *

(e) *Mobile repeater stations.* Mobile stations utilizing mobile service frequencies above 25 MHz may be used for the purpose of providing extended talk-back range for low-power hand-carried transmitters.

(1) Hand-carried transmitters whose communications will be automatically relayed by mobile stations may be assigned a separate frequency for this use but limited to a maximum output power of 2.5 watts.

(2) Each mobile station, when used for the purpose of automatically retransmitting messages originated by or destined for hand-carried units, shall be so designed and installed that it will be activated only by means of a continuous coded tone, the absence of which will deactivate the mobile transmitter. The continuous coded tone is not required when the mobile station is equipped with a switch that must be activated to change the mobile unit to the automatic mode and an automatic time delay device to de-activate the transmitter after any uninterrupted period of transmission in excess of three minutes.

(3) Mobile stations may also be used to provide extended base station talk out range to pocket or miniature receivers. However, any additional frequencies required for this purpose may not be used with a power output in excess of 2.5 watts.

§ 89.307 [Amended]

3. Section 89.307 is amended by deleting paragraph (f).

§ 89.357 [Amended]

4. Section 89.357 is amended by deleting paragraph (e).

PART 91—INDUSTRIAL RADIO SERVICES

1. Section 91.3 is amended by adding a new definition in alphabetical order to read:

§ 91.3 Definitions.

* * * * *

Mobile repeater station. A mobile station in the mobile service, authorized to retransmit automatically on a mobile service frequency, communications originated by hand-carried mobile units or by other mobile or base stations directed to such hand-carried units.

* * * * *

2. Section 91.7 is amended by adding new paragraph (e) to read:

§ 91.7 Relay and control stations.

* * * * *

(e) *Mobile repeater station.* Mobile stations utilizing mobile service frequencies above 25 MHz may be used for the purpose of providing extended talk-back range for low-powered hand-carried transmitters.

(1) Except as provided in subparagraph (4) of this paragraph, hand-carried transmitters whose communications will be automatically relayed by mobile stations may be assigned a separate frequency for this use but limited to a minimum output power of 2.5 watts.

(2) Each mobile station, used for the purpose of automatically retransmitting messages originated by or destined for hand-carried units, shall be so designed and installed that it will be activated only by means of a continuous coded tone, the absence of which will de-activate the mobile transmitter. The continuous coded tone is not required when the mobile station is equipped with a switch that must be activated to change the mobile unit to the automatic mode and an automatic time delay device to de-activate the transmitter after any uninterrupted period of transmission in excess of three minutes.

(3) Except as provided in paragraph (e)(4) of this section, mobile stations may also be used to provide extended base station talk out range to pocket or miniature receivers, however, any additional frequencies required for this purpose but limited to a maximum power output of 2.5 watts.

(4) Notwithstanding paragraph (e)(1) and (3) of this section, in the Business and Special Industrial Radio Services in the frequency bands below 450 MHz only low power frequencies (3 watts or less plate input power) may be assigned for the purposes described in paragraph (e)(1) and (2) of this section.

3. In § 91.554(b), limitations (32) and (41) are amended to read:

§ 91.554 Frequencies available.

* * * * *

(b) * * *

(32) Within the boundaries of urbanized areas of 200,000 or more population defined in the U.S. Census of Population, 1960, Vol. 1, Table 23, pages 1–50, this frequency may be assigned only to persons rendering a central station commercial protection service. *Central station commercial protection service* is defined as electrical protection and supervisory services rendered from and by a central station approved by one or more of the recognized rating agencies and/or the Underwriters' Laboratories, Inc. (UL).

* * * * *

(41) This frequency may be assigned only to persons rendering a central station commercial protection service. *Central station commercial protection service* is defined as those electrical protection and supervisory services rendered from and by a central station approved by one or more of the recognized rating agencies and/or the Underwriters' Laboratories, Inc. (UL).

* * * * *

PART 93—LAND TRANSPORTATION RADIO SERVICES

1. Section 93.7 is amended by adding a new definition in alphabetical order to read as follows:

§ 93.7 Definitions.

* * * * *

Mobile repeater station. A mobile station in the mobile services authorized to retransmit automatically on a mobile service frequency, communications originated by hand-carried mobile units or by other mobile or base stations directed to such hand-carried units.

* * * * *

[1] Commissioner Robert E. Lee absent.

2. New § 93.10 is added to read as follows:

§ 93.10 Mobile repeater stations.

(a) Except as provided in § 93.355 of the Railroad Radio Services Rules, mobile stations utilizing mobile frequencies above 25 MHz may be used for the purpose of providing extended talk-back range for low-powered hand-carried transmitters.

(1) Hand-carried transmitters whose communications will be automatically relayed by mobile stations may be assigned a separate frequency for this use but limited to a maximum output power of 2.5 watts.

(2) Each mobile station, when used for the purpose of automatically retransmitting messages originated by or destined for hand-carried units, shall be so designed and installed that it will be activated only by means of a continuous coded tone, the absence of which will deactivate the mobile transmitter. The continuous coded tone is not required when the mobile station is equipped with a switch that must be activated to change the mobile unit to the automatic mode and an automatic time delay device to de-activate the transmitter after any uninterrupted period of transmission in excess of three minutes.

(3) Mobile stations may also be used to provide extended base station talk out range to pocket or miniature receivers, however, any additional frequencies required for this purpose may not be used with power in excess of 2.5 watts.

[FR Doc.73-21351 Filed 10-5-73;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-221]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
*	*	*	*	*	*	*
Illinois	St. Clair	Cahokia, Village of.				Oct. 4, 1973. Emergency.
Pennsylvania	Montgomery	Bridgeport, Borough of.				Do.
Do	Blair	Catherine, Township of.				Do.
Do	Luzerne	Laflin, Borough of.				Do.
Do	Juniata	Mifflin, Borough of.				Do.
Do	Lycoming	Pine, Township of.				Do.
Do	Bucks	Warminster, Township of.				Do.
Do	do	Upper Southampton, Township of.				Do.
Do	Union	White Deer, Township of.				Do.
Virginia	Fluvanna	Unincorporated areas.				Do.
Do	Nelson	do				Do.
Wisconsin	Ashland	do				Do.
Do	Sawyer	Hayward, City of				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued September 28, 1973.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.73-21250 Filed 10-5-73;8:45 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 232—POSTAL LOSSES AND OFFENSES

Conduct on Postal Property

Section 232.6(h)(2) of Title 39, Code of Federal Regulations, dealing with fund raising by national nonprofit organizations in post office lobbies, is revised to require that prior permission for such fund raising must be given by the Customer Services Department, Headquarters, U.S. Postal Service.

New § 232.6(h)(3) provides that local charitable and other nonprofit organizations may request lobby space directly from their postmasters.

Accordingly, in § 232.6 make the following changes:

1. Paragraph (h) (2) and (3) is amended to read as follows:

§ 232.6 Conduct on postal property.

* * * * *

(h) Soliciting, vending, and debt collection.

* * * * *

(2) National organizations which are wholly nonprofit in nature and which are devoted to charitable or philanthropic purposes may request use of lobby space for annual or special fund raising campaigns, providing they do not interfere with the transaction of postal business or require expenditures by the Postal Services or the use of its employees or equipment. Requests will be forwarded to the Customer Services Department, USPS Headquarters for action. If permission is given, each organization will be provided a sectional center mailing list

and be informed that the sectional center must be requested to give permission on an installation-by-installation basis. The local postmaster will rely on his reasoned business judgment to restrict activities which may prevent, unduly impair, or interfere with the transaction of business or provision of postal services to the public.

(3) Local charitable and other nonprofit organizations may request use of lobby space directly from their postmasters. Postmasters must determine that the requested activity will not interfere with the transaction of normal postal business and obtain approval from their SCF Managers before granting the request.

(39 U.S.C. 401; 40 U.S.C. 318a, 318b, 318c; P.L. 92-351, title IV.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.73-21345 Filed 10-5-73:8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

SUBCHAPTER A—GENERAL MANAGEMENT (1000)

[Circular No. 2352]

PART 1850—HEARINGS PROCEDURES

SUBPART 1855—HEARINGS UPON POSSESSORY CLAIMS TO LANDS AND WATERS USED AND OCCUPIED BY NATIVES OF ALASKA

Revocation of Subpart 1855

Section 4 of the Alaska Native Claims Settlement Act (43 U.S.C. 1603) extinguished aboriginal titles and claims of aboriginal title in Alaska. Regulations implementing the Act were published on pages 14218-14227 of the May 30, 1973, edition of the FEDERAL REGISTER.

Extinguishment of aboriginal titles and claims make the regulations in 43 CFR Subpart 1855 obsolete and of no force and effect. Notice and public procedure for the revocation of this subpart are determined to be unnecessary and not in the public interest. Subpart 1855, Chapter II, Title 43, of the Code of Federal Regulations is hereby revoked in its entirety as of October 9, 1973.

JACK O. HORTON,
Assistant Secretary of the Interior.

OCTOBER 2, 1973.

[FR Doc.73-21313 Filed 10-5-73;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 189—VETERANS' COST-OF-INSTRUCTION PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

A proposal was published in the FEDERAL REGISTER on April 16, 1973 (Vol. 38, No. 72, p. 9472), to add a new Part 189 to Chapter I of Title 45 of the Code of Federal Regulations in accordance with the authority contained in section 420 of the Higher Education Act of 1965 (20 U.S.C. 1070e-1), "Veterans' cost-of-instruction payments to institutions of higher education." Printer's errors in this notice were corrected in a notice published in the FEDERAL REGISTER on April 20, 1973.

Most of the critical comments received related to statutory requirements over which the Government has no control. Germane points were raised by a few respondents to whom individual replies were sent. In these cases different points were raised by different respondents and none of the comments were of sufficient weight to warrant changes in the proposed regulations.

In light of the foregoing, the proposed regulations are hereby adopted without change, as set forth below.

Effective date.—These regulations are effective on October 9, 1973.

Dated August 27, 1973.

PETER P. MUIRHEAD,
Acting U.S. Commissioner of Education.

DONALD E. JOHNSON,
Administrator of Veterans' Affairs.

Approved: October 2, 1973.

FRANK CARLUCCI,
Acting Secretary of Health, Education, and Welfare.

Subpart A—General Provisions

AUTHORITY.—Section 420, Higher Education Act of 1965, as added by section 1001(a) of Public Law 92-318, 86 Stat. 378 (20 U.S.C. 1070e-1), unless otherwise noted.

Subpart A—General Provisions

§ 189.1 Definitions.

As used in this part:

"Academic year" means a period beginning on July 1 and ending on the following June 30.

"Cost-of-instruction payment," or "payment," means an amount calculated with respect to an institution of higher education for an academic year on the basis of undergraduate veteran student enrollment.

"Institution of higher education," or "institution," means an educational institution in any State which: (a) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (b) is legally authorized within such State to provide a program of education beyond secondary education, (c) provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward such a degree, (d) is a public or other nonprofit institution, and (e) is accredited by a nationally recognized accrediting agency or association as determined by the Commissioner or, if not so accredited, (1) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (2) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (a), (b), (d), and (e) of this definition.

"Instructional expenses in academically related programs" means the expenditures of instructional departments of an institution of higher education for salaries, office expenses, equipment, and research.

"School or department of divinity" means an institution or a department or a branch of an institution the program of instruction of which is designed for the education of students (a) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation), or (b) to prepare them to teach theological subjects.

"State" includes the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"Student" means a person in attendance as at least a half-time student at an institution of higher education. The term is further defined as follows:

(a) "Full-time student" means a student who (1) is enrolled for the equivalent of at least 14 semester hours or (2) is enrolled for the equivalent of not less than 12 semester hours and is being charged on the basis of the institution's normal full-time fee schedule.

(b) "Three-quarter time student" means a student who (1) is enrolled for the equivalent of 10 through 13 semester hours or (2) is enrolled for the equivalent of not less than 9 semester hours and is being charged at least three-quarters of the institution's normal full-time fees.

(c) "Half-time student" means a student who (1) is enrolled for the equivalent of 7 through 9 semester hours or (2) is enrolled for the equivalent of not less than 6 semester hours and is being charged at least one-half of the institution's normal full-time fees.

"Undergraduate" refers to a student who (a) has not earned his first bachelor's degree, (b) is not enrolled in a program of study leading to (1) a degree beyond the bachelor's degree or (2) a first professional degree when at least 3 years of study at the college level are required for entrance into a program leading to such degree, and (c) (1) is fully matriculated and pursuing a program of studies leading to a certificate or diploma or (2) is receiving or has received educational assistance under subchapter V or subchapter VI of chapter 34 of title 38, United States Code.

"Veteran" means a person receiving benefits under chapter 31 or chapter 34 of title 38, United States Code, or who, if enrolled in an institution of higher education, would be eligible for such benefits.

(20 U.S.C. 1070e, 1070e–1, 1088, 1141.)

§ 189.2 Institutional eligibility.

(a) To apply for assistance under this part, an applicant must be an institution of higher education, and must meet the requirements specified in paragraph (b) of this section.

(b) In order for an institution of higher education to apply for assistance under this part for the academic year ending June 30, 1974, it must have in attendance on April 16, 1973 (or, where such date falls between academic terms of the institution, the end of the previous academic term), a number of undergraduate veteran students receiving benefits under chapter 31 or chapter 34 of title 38, United States Code (or who have received benefits under subchapter V or subchapter VI of such chapter 34 while attending such institution during that academic year) equal to at least 110 percent of the number of undergraduate veteran students who were in attendance on the same date in the preceding academic year and were at that time receiving benefits under chapter 31 or chapter 34 of title 38, United States Code (or had received benefits under subchapter V or subchapter VI of such chapter 34 while attending such institution during that academic year).

(c) Schools or departments of divinity and proprietary institutions (i.e., organized for profit) are not eligible to apply for assistance under this part.

(20 U.S.C. 1070e–1.)

§ 189.3 Calculation of cost-of-instruction payment.

(a) To compute an institution's cost-of-instruction payment under this part, the Commissioner of Education shall determine on the basis of data provided by the institution:

(1) The number of undergraduate veteran students in attendance on the applicable date specified in paragraph (b) of this section who are at that time recipients of vocational rehabilitation subsistence under chapter 31 of title 38, United States Code, or of educational assistance under chapter 34 of title 38, United States Code, and

(2) The number of undergraduate veteran students in attendance on the applicable date specified in paragraph (b) of this section who have, while attending that institution and during the academic year in which such date occurred, received educational assistance under subchapter V or subchapter VI of chapter 34 of title 38, United States Code.

(b) A cost-of-instruction payment shall, for the academic year ending June 30, 1974, and subject to the availability of funds, be computed on the basis of the following rates for students in attendance on April 16, 1973 (or, where such date falls between academic terms of the institution, the end of the previous academic term):

(1) For students described in paragraph (a) (1) of this section:

(i) $300 per full-time student;

(ii) $225 per three-quarter time student;

(iii) $150 per half-time student; and

(iv) No payment for students not enrolled as at least half-time students.

(2) For students described in paragraph (a) (2) of this section:

(i) $150 per full-time student;

(ii) $112.50 per three-quarter time student;

(iii) $75 per half-time student; and

(iv) No payment for students not enrolled as at least half-time students.

(20 U.S.C. 1070e–1.)

§ 189.4 Applicability of civil rights provisions.

(a) Federal financial assistance under this part is subject to the regulations in part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of title VI of the Civil Rights Act of 1964 (Public Law 88–352).

(42 U.S.C. 2000d.)

(b) Federal financial assistance under this part is also subject to the provisions of title IX of the Education Amendments of 1972 (prohibition of sex discrimination) and any regulations issued thereunder.

(20 U.S.C. 1681–86; Public Law 92–318, section 906.)

Subpart B—Required Services and Use of Funds

§ 189.11 Special definitions.

For purposes of this subpart:

(a) "Full-time," with respect to an office of veterans' affairs, means that the office of veterans' affairs (1) is staffed by at least one person whose sole institutional responsibility is that of coordinating the activities of the office and (2) provides services at times and places convenient to the veterans being served.

(b) "Outreach" means an extensive, coordinated, communitywide program of reaching veterans within the institution's normal service area, determining their needs, and making appropriate referral and follow-up arrangements with relevant service agencies.

(c) "Recruitment" means a concerted effort to interest veterans in taking advantage of opportunities for a wide variety of postsecondary training experiences at the institution.

(d) "Special education programs" means specially designed remedial, tutorial, and motivational programs designed to promote success in the postsecondary experience.

(e) "Counseling" means professional assistance available to veterans for consultation on personal, family, educational, and career problems.

(20 U.S.C. 1070e–1.)

§ 189.12 Office of veterans' affairs.

Except as provided in § 189.14, an application for assistance under this part shall be approved only if the Commissioner is satisfied that the applicant will maintain, during the academic year ending June 30, 1974, a full-time office of veterans' affairs with adequate services, in light of the criteria set forth in § 189.16, in the areas of outreach, recruitment, special education programs, and counseling.

(20 U.S.C. 1070e–1.)

§ 189.13 Related veterans' services.

Except as provided in § 189.14, an application for assistance under this part shall be approved only if the Commissioner is satisfied that the applicant will, during the academic year ending June 30, 1974, make an adequate effort, in light of the criteria set forth in § 189.16 and with funds received under this part, to carry out:

(a) Programs designed to prepare educationally disadvantaged veterans for postsecondary education (1) under subchapter V of chapter 34 of title 38, United States Code, and (2) in the case of any institution located near a military installation, under subchapter VI of such chapter 34;

(b) Active outreach, recruiting, and counseling activities through the use of other funds such as those available under federally assisted work-study programs; and

(c) An active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of such title 38.

(20 U.S.C. 1070e–1.)

§ 189.14 Institutions with small numbers of students and veterans.

An institution with less than 2,500 students and no more than 70 undergraduate veteran students in attendance on

April 16, 1973 (or, where such date falls between academic terms of the institution, the end of the previous academic term) need provide the services described in § 189.12 only to the extent of maintaining a full-time office of veterans' affairs with adequate services in the areas of recruitment and counseling, and need not provide the services described in § 189.13.

(20 U.S.C. 1070e–1.)

§ 189.15 Consortium agreements.

In the case of an institution with less than 2,500 students in attendance on April 16, 1973 (or, where such date falls between academic terms of the institution, the end of the previous academic term) the Commissioner may permit one or more of the functions set forth in §§ 189.12 and 189.13 to be carried out under a consortium agreement between that institution and one or more other institutions located within a reasonable commuting distance therefrom if he finds that (a) such institution cannot feasibly itself carry out such functions, and (b) the benefits of such functions will be readily accessible to veterans attending, and to veterans in the community served by, each of the institutions which are parties to the agreement.

(20 U.S.C. 1070e–1.)

§ 189.16 Criteria for assessing adequacy of veterans' programs.

An applicant institution's assurance pursuant to § 189.21(b)(6), with respect to the requirements of §§ 189.12 and 189.13 and to the extent that such requirements are not waived pursuant to § 189.14, shall be made in light of the following criteria, which criteria shall also be used by the Commissioner in evaluating the adequacy of the institution's veterans' programs:

(a) *In general.*—(1) Appropriate consideration of the magnitude of the veteran population in the institution's normal service area;

(2) Appropriate consideration of the number of veterans enrolled at the institution;

(3) The establishment of an appropriate advisory mechanism, to assist in the institution's decisionmaking process with respect to veterans' services as appropriate, through which the institution may become aware of the views of the institution's administrative and academic staff, its veteran student population, and relevant community organizations;

(4) The use of qualified Vietnam-era veterans in staffing the institution's office of veterans' affairs and in providing related services;

(5) The employment of a sufficient number of qualified staff members in order to adequately support required veterans' activities and services; and

(6) The provision of adequate, visible and accessible housing for the institution's office of veterans' affairs, in light of the institution's veteran student enrollment and physical environment;

(b) With respect to outreach, the establishment and maintenance of—

(1) Contact with veterans in the institution's normal service area;

(2) A procedure for assessing veterans' needs, problems, and interests; and

(3) A coordinated and extensive referral service involving agencies providing assistance in areas such as housing, employment, health, recreation, vocational and technical training, and financial assistance;

(c) With respect to recruitment, the establishment and maintenance of a process of bringing the maximum number of veterans into purposeful systematic programs of higher education most suited to their educational and career aspirations, including such techniques as publications, use of mass media, and personal contacts.

(d) With respect to special education programs, the establishment and maintenance of,

(1) Support from appropriate departments of the institution for launching special education programs for the veteran student of a remedial, motivational, and tutorial nature;

(2) Support throughout the institution for appropriate changes in rules, policies, and procedures that will accommodate the special needs and problems of the veteran student; and

(3) Adequate guidance for individual veteran students that will insure the highest possible rate of their retention in educational programs; and

(e) With respect to counseling, the establishment and maintenance of—

(1) Ease of access of veteran students to professional assistance for consultation on personal, family, educational, and career problems as appropriate and necessary; and

(2) Frequent and scheduled liaison of the office of veterans' affairs with the institution's academic departments, counseling service, and central administration.

(20 U.S.C. 1070e–1.)

§ 189.17 Expenditure requirements.

Not less than 50 percent of funds awarded on account of undergraduate veteran student enrollment at an institution under this part shall be used to implement the requirements of §§ 189.12 and 189.13. The remainder of the funds, to the extent not needed for implementing such requirements, may be used solely to defray instructional expenses in academically related programs of such institution. All assistance received under this part must be expended or obligated for the foregoing purposes not later than June 30, 1974.

(20 U.S.C. 1070e, 1070e–1.)

Subpart C—Application Process

§ 189.21 Submission of application by individual institutions.

(a) Assistance under this part will be provided only on the basis of an application submitted by an institution which sets forth all information necessary to determine the institution's eligibility and payment amount.

(b) Each application must be submitted on a form to be provided by the Commissioner and contain the following:

(1) Information necessary to show that the institution is eligible for assistance under this part;

(2) Information necessary to determine the amount of the institution's payment, in accordance with § 189.3;

(3) An assurance that any funds received by the institution under this part will not be used for a school or department of divinity or for any religious worship or sectarian activity;

(4) An assurance that any funds received by the institution under this part which are not required pursuant to § 189.17 to be used to implement the requirements of §§ 189.12 and 189.13 will be used solely to defray instructional expenses in academically related programs of the institution;

(5) An assurance that the institution will expend during the academic year ending June 30, 1974, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the 3 academic years preceding the academic year ending June 30, 1974, together with such supporting data as the Commissioner may require;

(6) An assurance that the institution will carry out the requirements set forth in §§ 189.12 and 189.13; and

(7) If the institution is seeking a waiver of any of the required activities specified in §§ 189.12 and 189.13 pursuant to § 189.14, information necessary to show that it has less than 2,500 students and not more than 70 undergraduate veteran students in attendance on April 16, 1973 (or, where such date falls between academic terms of the institution, the end of the previous academic term).

(20 U.S.C. 1070e–1.)

§ 189.22 Submission of applications by parties to consortium agreements.

Institutions proposing to carry out the activities required under this part through a consortium agreement, pursuant to § 189.15, must submit their applications on a form to be provided by the Commissioner, and each such institution must provide all information and assurances required pursuant to § 189.21 as well as information and assurances necessary to a finding by the Commissioner that the conditions for a consortium agreement set forth in §189.15 have been met.

(20 U.S.C. 1070e–1.)

Subpart D—Fiscal and Reporting Requirements

§ 189.31 Maintenance of records.

(a) *Records.*—Each institution and consortium of institutions shall keep intact and accessible records relating to the receipt and expenditure of Federal funds in accordance with section 434(a) of the General Education Provisions Act, including all accounting records and

related original and supporting documents that substantiate direct costs charged to the award. Records must be maintained so as to reflect (1) expenditures made for veterans' services provided for under this part, and (2) expenditures made for instructional costs in academically related programs.

(b) *Period of retention.*—(1) Except as provided in paragraph (b)(2) of this section and paragraph (a) of § 189.32, the records specified in paragraph (a) of this section shall be retained for 3 years after the date of the submission of the fiscal operations report, pursuant to § 189.33, to which they pertain.

(2) Records for nonexpendable personal property which was acquired with Federal funds shall be retained for 3 years after its final disposition.

(c) *Microfilm copies.*—Institutions may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(20 U.S.C. 1232c(a).)

§ 189.32 Audits.

(a) *Audit questions.*—The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit questions.

(b) *Audit and examination.*—The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to all such records and to any other pertinent books, documents, papers, and records of the institution or consortium of institutions. The Commissioner may, at any time before or after making a payment under this part, review the data supplied by an institution with respect to such payment and take appropriate action as a result thereof, including that of requiring the institution to return funds received on the basis of inaccurate data submitted by the institution.

(c) *Audit responsibilities.*—(1) All expenditures by recipient institutions or consortiums thereof shall be audited by the recipient or at the recipient's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws and regulations.

(2) An institution, and a consortium of institutions, shall schedule such audits with reasonable frequency, usually annually, but not less frequently than once every 2 years, considering the nature, size, and complexity of the activity.

(3) Copies of audit reports shall be made available to the Commissioner to assure that proper use has been made of the funds expended. The results of such audits will be used to review the institution's, or consortium's, records and shall be made available to Federal auditors. Federal auditors shall be given access to such records or other documents as may be necessary to review the results of such audits.

(4) Each institution and consortium shall use a single auditor for all of its expenditures under Federal education assistance programs regardless of the number of Federal agencies providing such assistance.

(20 U.S.C. 1232c(a), (b)(2).)

§ 189.33 Fiscal operations reports.

(a) In addition to such other accounting as the Commissioner may require, an institution or consortium shall render annually, with respect to the assistance awarded under this part, a full account of funds expended, obligated, and remaining.

(b) A report of such accounting shall be submitted to the Commissioner within 90 days of the expiration of the academic year for which such assistance was awarded, and the institution or consortium shall remit within 30 days of the receipt of a written request therefor any amounts found by the Commissioner to be due. Such period may, upon written request, be extended at the discretion of the Commissioner.

(20 U.S.C. 1232c(b)(3); 31 U.S.C. 628.)

§ 189.34 Limitations on costs.

The maximum amount of a payment under this part shall be set forth in the award document. The total payment from the Federal Government will not exceed the amount so set forth.

(31 U.S.C. 200.)

§ 189.35 Reporting requirements.

(a) Institutions of higher education, and consortiums thereof, receiving assistance under this part must submit to the Commissioner no more than 30 days after the close of each academic year, a report describing the manner in which the required veterans' services were provided during such academic year. Such a report shall be in a format approved by the Commissioner and shall make specific reference to the extent to which the criteria set forth in § 189.16 of this part have been met.

(b) Interim reports describing the progress being made in providing the veterans' services required pursuant to §§ 189.12 and 189.13 of this part shall be submitted if, and at such times as, the Commissioner deems such reports necessary.

(20 U.S.C. 1070e-1.)

[FR Doc.73-21354 Filed 10-5-73;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1152]

PART 1033—CAR SERVICE

Distribution of Refrigerator Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 2d day of October 1973.

It appearing, that an acute shortage of mechanical refrigerator cars exists in the primary fruit and vegetable growing and shipping areas of the country; that shippers of these and other products requiring protection from heat or cold are being deprived of adequate supplies of such cars, creating great economic loss; that mechanical refrigerator cars are being diverted to the handling of other types of freight not requiring such protection and are not being returned promptly to such fruit and vegetable growing areas; that present rules, regulations, and practices with respect to the use, supply, control, movement, exchange, interchange, and return of such mechanical refrigerator cars to such growing and shipping areas are ineffective; that it is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1152 Service Order No. 1152.

(a) *Distribution of refrigerator cars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service.

(1) *Application.* (i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all mechanical refrigerator cars listed in the Official Railway Equipment Register, I.C.C. R.E.R. No. 388, or reissues thereof as having mechanical designation "RP" or "RPL" bearing reporting marks assigned to a railroad or to a railroad owned or controlled private car company as defined in paragraph (a)(1)(iii) of this section.

(iii) The following companies are defined as being railroad owned or controlled private car lines:

American Refrigerator Transit Company
Fruit Growers Express Company
Merchants Dispatch Transportation Corporation
Pacific Fruit Express Company
Western Fruit Express Company.

(2) *Distribution.* (i) Withdraw from distribution and return to owners empty all mechanical refrigerator cars bearing railroad reporting marks. (See exception.)

(ii) Exception: Empty mechanical refrigerator cars bearing reporting marks UPFE or SPFE shall be returned to either the Southern Pacific Transportation Company or to the Union Pacific Railroad Company in accordance with instructions issued by their jointly-owned subsidiary, the Pacific Fruit Express Company.

(iii) Withdraw from distribution and move empty as directed by the car owner all empty mechanical refrigerator cars bearing reporting marks assigned to a railroad owned or controlled private car company as defined in paragraph (a)(1)(iii) of this section.

(3) *Restrictions on loading.* (i) Mechanical refrigerator cars bearing railroad reporting marks located on the lines of the car owner may be loaded only with freight requiring protection from heat or cold and subject to the provisions of Perishable Protective Tariff 18, I.C.C. No. 37, issued by H. R. Brandl, supplements thereto or reissues thereof. (See paragraph (a) (2) (iii) of this section.)

(ii) Mechanical refrigerator cars bearing reporting marks assigned to a railroad owned or controlled private car line may be loaded only at stations on railroads designated by the car owner and only with freight requiring protection from heat or cold and subject to the provisions of Perishable Protective Tariff 18, I.C.C. No. 37, issued by H. R. Brandl, supplements thereto, or reissues thereof. (See Exception (iii).)

(iii) Exception: Cars with defective mechanical refrigeration units which the car owner certifies cannot be placed in operating condition within thirty days. The certification provided herein shall be made to R. D. Pfahler, Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423.

(iv) Mechanical refrigerator cars bearing reporting marks assigned to a railroad and located on lines other than the car owner may be loaded with freight requiring protection from heat or cold and subject to the provisions of Perishable Protective Tariff 18, I.C.C. No. 37, issued by H. R. Brandl, supplements thereto, or reissues thereof, if destined to stations on the lines of the car owner. (See paragraph (a) (3) (v) of this section.)

(v) Exception: Mechanical refrigerator cars bearing reporting marks SPFE and UPFE located on lines other than the car owner may be loaded with freight requiring protection from heat or cold and subject to the provisions of Perishable Protective Tariff 18, I.C.C. No. 37, issued by H. R. Brandl, supplements thereto, or reissues thereof, if destined to any station on either the Southern Pacific Transportation Company or the Union Pacific Railroad Company, regardless of reporting marks on the car loaded.

(vi) Mechanical refrigerator cars described in this order must not be backhauled or held empty more than twenty-four (24) hours awaiting placement for loading authorized in paragraph (a) (3) (iv) or (v) of this section.

(b) *Effective date.*—This order shall become effective at 11:59 p.m., October 7, 1973.

(c) *Expiration date.*—This order shall expire at 11:59 p.m., December 15, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement, under the terms of that agreement; and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-21418 Filed 10-5-73;8:45 am]

Title 12—Banks and Banking

CHAPTER I—BUREAU OF THE COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 21—MINIMUM SECURITY DEVICES AND PROCEDURES FOR NATIONAL AND DISTRICT BANKS

Minimum Standards for Security Devices

This amendment is issued under sec. 3 of the Bank Protection Act of 1968, 82 Stat. 295, 12 U.S.C. 1882. It revises Appendix A "Minimum Standards for Security Devices", of Part 21 entitled "Minimum Security Devices and Procedures for National and District Banks". Notice of the proposed amendment of Part 21 was published in the FEDERAL REGISTER on January 3, 1973 (38 FR 31). A number of comments were received following publication and have been carefully considered. The amendment, however, differs from the published proposed amendment only in minor refinements of language. The sections on cash dispensing machines, the use of steel liners in vaults and the definition of vaults have been reworded for greater clarity. It will become effective November 1, 1973.

Part 21 of Chapter I, Title 12 of the Code of Federal Regulations of the United States of America is amended by revising Appendix A, "Minimum Standards for Security Devices" to read as follows below.

Dated October 2, 1973.

[SEAL] JAMES E. SMITH,
Comptroller of the Currency.

APPENDIX A—MINIMUM STANDARDS FOR SECURITY DEVICES

In order to assure realization of maximum performance capabilities, all security devices utilized by a bank should be regularly inspected, tested, and serviced by competent persons. Actuating devices for surveillance systems and robbery alarms should be operable with the least risk of detection by unauthorized persons that can be practicably achieved.

(1) *Surveillance systems* (i) *General.* Surveillance systems should be:

(A) Equipped with one or more photographic, recording, monitoring, or like devices capable of reproducing images of persons in the banking office with sufficient clarity to facilitate (through photographs capable of being enlarged to produce a one-inch vertical head-size of persons whose images have been reproduced) the identification and apprehension of robbers or other suspicious persons;

(B) Reasonably silent in operation; and

(C) So designed and constructed that necessary services, repairs or inspections can readily be made. Any camera used in such a system should be capable of taking at least one picture every 2 seconds and, if it uses film, should contain enough unexposed film at all times to be capable of operating for not less than 3 minutes, and the film should be at least 16mm.

(ii) *Installation and operation of surveillance systems providing surveillance of other than walk-up or drive-in teller's stations or windows.* Surveillance devices for other than walk-up or drive-in teller's stations or windows should be:

(A) Located so as to reproduce identifiable images of persons either leaving the banking office or in a position to transact business at each such station or window; and

(B) Capable of actuation by initiating devices located at each teller's station or window.

(iii) *Installation and operation of surveillance systems providing surveillance of walk-up or drive-in teller's stations or windows.* Surveillance devices for walk-up or drive-in teller's stations or windows should be located in such a manner as to reproduce identifiable images of persons in a position to transact business at each such station or window and areas of such station or window that are vulnerable to robbery or larceny. Such devices should be capable of actuation by one or more initiating devices located within or in close proximity to such station or window. Such devices may be omitted in the case of a walk-up or drive-in teller's station or window in which the teller is effectively protected by a bullet-resistant barrier from persons outside the station or window. However, if the teller is vulnerable to larceny or robbery by members of the public who enter the banking office, the teller should have access to a device to actuate a surveillance system that covers the area of vulnerability or the exits to the banking office.

(2) *Robbery and burglary alarm systems.*—(i) *Robbery alarm systems.* A robbery alarm system should be provided for each banking office at which the police ordinarily can arrive within 5 minutes after an alarm is actuated; all other banking offices should be provided with appropriate devices for promptly notifying the police that a robbery has occurred or is in progress. Robbery alarm systems should be:

(A) Designed to transmit to the police, either directly or through an intermediary, a signal (not detectable by unauthorized persons) indicating that a crime against the banking office has occurred or is in progress;

(B) Capable of actuation by initiating devices located at each teller's station or window (except walk-up or drive-in teller's stations or windows in which the teller is effectively protected by a bullet-resistant barrier and effectively isolated from persons, other than fellow employees, inside a banking office of which such station or window may be a part);

(C) Safeguarded against accidental transmission of an alarm;

(D) Equipped with a visual and audible signal capable of indicating improper functioning of or tampering with the system; and

(E) Equipped with an independent source of power (such as a battery) sufficient to assure continuously reliable operation of the system for at least 24 hours in the event of failure of the usual source of power.

(ii) *Burglary alarm systems.* A burglary alarm system should be provided for each banking office. Burglary alarm systems should be:

(A) Capable of detecting promptly an attack on the outer door, walls, floor, or ceiling of each vault, and each safe not stored in a vault, in which currency, negotiable securities, or similar valuables are stored when the office is closed, and any attempt to move any such safe;

(B) Designed to transmit to the police, either directly or through an intermediary, a signal indicating that any such attempt is in progress; and for banking offices at which the police ordinarily cannot arrive within 5 minutes after an alarm is actuated, designed to actuate a loud sounding bell or other device that is audible inside the banking office and for a distance of approximately 500 feet outside the banking office;

(C) Safeguarded against accidental transmission of an alarm;

(D) Equipped with a visual and audible signal capable of indicating improper functioning of or tampering with the system; and

(E) Equipped with an independent source of power (such as a battery) sufficient to assure continuously reliable operation of the system for at least 80 hours in the event of failure of the usual source of power.

(3) *Walk-up and drive-in teller's stations or windows.* Walk-up and drive-in teller's stations or windows contracted for after February 15, 1969, should be constructed in such a manner that tellers are effectively protected by bullet-resistant barriers from robbery or larceny by persons outside such stations or windows. Such barriers should be of glass at least 1 9/16 inches in thickness,[1] or of material of at least equivalent bullet-resistance. Pass-through devices should be so designed and constructed as not to afford a person outside the station or window a direct line of fire at a person inside the station.

(4) *Vaults, safes, safe deposit boxes, night depositories, and automated paying or receiving machines.* Vaults, safes (if not to be stored in a vault), safe deposit boxes, night depositories, and automated paying or receiving machines, in any of which currency, negotiable securities, or similar valuables are to be stored when banking offices are closed, should meet or exceed the standards expressed in this section.

(i) *Vaults.* A vault is defined as a room or compartment that is designed for the storage and safekeeping of valuables and which has a size and shape which permits entrance and movement within by one or more persons. Other asset storage units which do not meet this definition of a vault will be considered as safes. Vaults contracted for after November 1, 1973,[2] should have walls, floor, and ceiling of reinforced concrete at least 12 inches in thickness.[3] The vault door should be made of steel at least 3½ inches in thickness, or other drill and torch resistant material, and be equipped with a dial combination lock, a time lock, and a substantial lockable day-gate. Electrical conduits into the vault should not exceed 1½ inches in diameter and should be offset within the walls, floor, or ceiling at least once so as not to form a direct path of entry. A vault ventilator, if provided, should be designed with consideration of safety to life without significant reduction of the strength of the vault wall to burglary attack. Alternatively, vaults should be so designed and constructed as to afford at least equivalent burglary resistance.[4]

(ii) *Safes.* Safes contracted for after February 15, 1969, should weigh at least 750 pounds empty, or be securely anchored to the premises where located. The body should consist of steel, at least 1 inch in thickness, either cast or fabricated, with an ultimate tensile strength of 50,000 pounds per square inch and be fastened in a manner equal to a continuous ¼ inch penetration weld having an ultimate tensile strength of 50,000 pounds per square inch. The door should be made of steel that is at least 1½ inch in thickness, and at least equivalent in strength to that specified for the body; and the door should be equipped with a combination lock, or time lock, and with a relocking device that will effectively lock the door if the combination lock or time lock is punched. One hole not exceeding ½ inch diameter may be provided in the body to permit insertion of electrical conductors, but should be located so as not to permit a direct view of the door or locking mechanism. Alternatively, safes should be constructed of materials that will afford at least equivalent burglary resistance.

(iii) *Safe deposit boxes.* Safe deposit boxes used to safeguard customer valuables should be enclosed in a vault or safe meeting at least the above-specified minimum protection standards.

(iv) *Night depositories.* Night depositories (excluding envelope drops not used to receive substantial amounts of currency) contracted for after February 15, 1969, should consist of a receptacle chest having cast or welded steel walls, top, and bottom, at least 1 inch in thickness; a steel door at least 1½ inches in thickness, with a combination lock; and a chute, made of steel that is at least 1 inch in thickness, securely bolted or welded to the receptacle and to a depository entrance of strength similar to the chute. Alternatively, night depositories should be so designed and constructed as to afford at least equivalent burglary resistance.[5] Each depository entrance (other than an envelope drop slot) should be equipped with a lock. Night depositories should be equipped with a burglar alarm and be designed to protect against the "fishing" of a deposit from the deposit receptacle, and to protect against the "trapping" of a deposit for extraction.

(v) *Automated paying or receiving machines.* Except as hereinafter provided, cash dispensing machines (automated paying machines), including those machines which also accept deposits (automated receiving machines) contracted for after November 1, 1973, should weigh at least 750 pounds empty, or be securely anchored to the premises where located. Cash dispensing machines should contain, among other features, a storage chest having cast or welded steel walls, top, and bottom, at least one inch in thickness, with a tensile strength of at least 50,000 pounds per square inch. Any doors should be constructed of steel at least equivalent in strength to the storage chest and be equipped with a combination lock and with a relocking device that will effectively lock the door if the combination lock is punched. The housing covering the cash dispensing opening in the storage chest and the housing covering the mechanism for removing the cash from the storage chest, should be so designed as to provide burglary resistance at least equivalent to the storage chest and should also be designed to protect against the "fishing" of cash from the storage chest. The cash dispensing control and delivering mechanism (and, when applicable, cash deposit receipt mechanism) should be protected by steel, at least ½ inch in thickness, securely attached to the storage chest. A cash dispensing machine which also receives deposits should have a receptacle chest having the same burglary resistant characteristics as that of cash dispensing storage chest and should be designed to protect against the fishing and trapping of deposits. Necessary ventilation for the automated machines should be designed so as to avoid significantly reducing the burglary resistance of the machines. The cash dispensing machine should also be designed so as to be protected against actuation by unauthorized persons, should be protected by a burglar alarm, and should be located in a well-lighted area. Alternatively, cash dispensing machines should be so designed and constructed as to afford at least equivalent burglary resistance.[6] A cash dispensing machine which is used inside a bank's premises only during bank business hours, and which is empty of currency and coin at all other times, should at least provide safeguards against "jimmying," unauthorized opening of the storage chest door, and against actuation by unauthorized persons.

[FR Doc.73-21326 Filed 10-5-73;8:45 am]

[1] It should be emphasized that this thickness is merely bullet-resistant and not bulletproof.

[2] Vaults contracted for previous to this date should be constructed in conformance with all applicable specifications then in effect.

[3] The reinforced concrete should have: two grids of #5 (⅝" diameter) deformed steel bars located in horizontal and vertical rows in each direction to form grids not more than 4 inches on center; or two grids of expanded steel bank vault mesh placed parallel to the face of the walls, weighing at least 6 pounds per square foot to each grid, having a diamond pattern not more than 3" x 8"; or two grids of any other fabricated steel placed parallel to the face of the walls, weighing at least 6 pounds per square foot to each grid and having an open area not exceeding 4 inches on center. Grids are to be located not less than 6 inches apart and staggered in each direction. The concrete should develop an ultimate compression strength of at least 3,000 pounds per square inch.

[4] Equivalent burglary-resistant materials for vaults do *not* include the use of a steel lining, either inside or outside a vault wall, in lieu of the specified reinforcement and thickness of concrete. Nonetheless, there may be instances, particularly where the construction of a vault of the specified reinforcement and thickness of concrete would require substantial structural modification of an existing building, where compliance with the specified standards would be unreasonable in cost. In those instances, the bank should comply with the procedure set forth in section 21.3(c).

[5] Equivalent burglary-resistant materials for night depositories include the use of one-fourth inch steel plate encased in 6 inches or more of concrete or masonry building wall.

[6] Equivalent burglary-resistant materials for cash dispensing machines include the use of ⅜ inch thick nickel stainless steel meeting American Society of Testing Materials (ASTM) Designation A 167-70, Type 304, in place of 1 inch thick steel, if other criteria are satisfied.

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. P]

PART 216—MINIMUM SECURITY DEVICES AND PROCEDURES FOR FEDERAL RESERVE BANKS AND STATE MEMBER BANKS

Minimum Standards for Security Devices

As part of its responsibilities under the Bank Protection Act of 1968 (82 Stat.

294), the Board of Governors conducts a continuing review of the minimum standards for bank security devices. On January 3, 1973, the Board of Governors proposed to revise Appendix A, "Minimum Standards for Security Devices," of Part 216 entitled "Minimum Security Devices and Procedures for Federal Reserve Banks and State Member Banks."

The proposed Appendix A clarified standards with which each Federal Reserve Bank and each State member bank must comply regarding the installation, maintenance, and operation of security devices to discourage robberies, burglaries, and larcenies and to assist in the identification and apprehension of persons who commit such acts. Among the proposed revisions were a definition of vaults as distinguished from safes, protection standards for cash dispensing machines and a clarification of the requirements that safe deposit boxes be stored in an approved vault or safe.

After consideration of all comments received, the Board has decided to adopt the proposal with slight modifications. The sections on cash dispensing machines, the use of steel liners in vaults, and the definition of vaults have been reworded for greater clarity. The other revisions proposed in the earlier announcement have been incorporated into the appendix.

Effective November 1, 1973, the Board has amended Appendix A of its Regulation P (12 CFR Part 216) to read as follows:

APPENDIX A—MINIMUM STANDARDS FOR SECURITY DEVICES

In order to assure realization of maximum performance capabilities, all security devices utilized by a bank should be regularly inspected, tested, and serviced by competent persons. Actuating devices for surveillance systems and robbery alarms should be operable with the least risk of detection by unauthorized persons that can be practicably achieved.

(1) *Surveillance systems.*—(i) *General.* Surveillance systems should be:

(A) Equipped with one or more photographic, recording, monitoring, or like devices capable of reproducing images of persons in the banking office with sufficient clarity to facilitate (through photographs capable of being enlarged to produce a one-inch vertical head-size of persons whose images have been reproduced) the identification and apprehension of robbers or other suspicious persons;

(B) Reasonably silent in operation; and

(C) So designed and constructed that necessary services, repairs or inspections can readily be made.

Any camera used in such a system should be capable of taking at least one picture every 2 seconds and, if it uses film, should contain enough unexposed film at all times to be capable of operating for not less than 3 minutes, and the film should be at least 16mm.

(ii) *Installation and operation of surveillance systems providing surveillance of other than walk-up or drive-in teller's stations or windows.* Surveillance devices for other than walk-up or drive-in teller's stations or windows should be:

(A) Located so as to reproduce identifiable images of persons either leaving the banking office or in a position to transact business at each such station or window; and

(B) Capable of actuation by initiating devices located at each teller's station or window.

(iii) *Installation and operation of surveillance systems providing surveillance of walk-up or drive-in teller's stations or windows.* Surveillance devices for walk-up or drive-in teller's stations or windows should be located in such a manner as to reproduce identifiable images of persons in a position to transact business at each such station or window and areas of such station or window that are vulnerable to robbery or larceny. Such devices should be capable of actuation by one or more initiating devices located within or in close proximity to such station or window. Such devices may be omitted in the case of a walk-up or drive-in teller's station or window in which the teller is effectively protected by a bullet-resistant barrier from persons outside the station or window. However, if the teller is vulnerable to larceny or robbery by members of the public who enter the banking office, the teller should have access to a device to actuate a surveillance system that covers the area of vulnerability or the exits to the banking office.

(2) *Robbery and burglary alarm systems.*—(i) *Robbery alarm systems.* A robbery alarm system should be provided for each banking office at which the police ordinarily can arrive within 5 minutes after an alarm is actuated; all other banking offices should be provided with appropriate devices for promptly notifying the police that a robbery has occurred or is in progress. Robbery alarm systems should be:

(A) Designed to transmit to the police, either directly or through an intermediary, a signal (not detectable by unauthorized persons) indicating that a crime against the banking office has occurred or is in progress;

(B) Capable of actuation by initiating devices located at each teller's station or window (except walk-up or drive-in teller's stations or windows in which the teller is effectively protected by a bullet-resistant barrier and effectively isolated from persons, other than fellow employees, inside a banking office of which such station or window may be a part);

(C) Safeguarded against accidental transmission of an alarm;

(D) Equipped with a visual and audible signal capable of indicating improper functioning of or tampering with the system; and

(E) Equipped with an independent source of power (such as a battery) sufficient to assure continuously reliable operation of the system for at least 24 hours in the event of failure of the usual source of power.

(ii) *Burglary alarm systems.* A burglary alarm system should be provided for each banking office. Burglary alarm systems should be:

(A) Capable of detecting promptly an attack on the outer door, walls, floor, or ceiling of each vault, and each safe not stored in a vault, in which currency, negotiable securities, or similar valuables are stored when the office is closed, and any attempt to move any such safe;

(B) Designed to transmit to the police, either directly or through an intermediary, a signal indicating that any such attempt is in progress; and for banking offices at which the police ordinarily cannot arrive within 5 minutes after an alarm is actuated, designed to actuate a loud sounding bell or other device that is audible inside the banking office and for a distance of approximately 500 feet outside the banking office;

(C) Safeguarded against accidental transmission of an alarm;

(D) Equipped with a visual and audible signal capable of indicating improper functioning of or tampering with the system; and

(E) Equipped with an independent source of power (such as a battery) sufficient to assure continuously reliable operation of the system for at least 80 hours in the event of failure of the usual source of power.

(3) *Walk-up and drive-in teller's stations or windows.* Walk-up and drive-in teller's stations or windows contracted for after February 15, 1969, should be constructed in such a manner that tellers are effectively protected by bullet-resistant barriers from robbery or larceny by persons outside such stations or windows. Such barriers should be of glass at least 1⁹/₁₆ inches in thickness,[1] or of material of at least equivalent bullet-resistance. Pass-through devices should be so designed and constructed as not to afford a person outside the station or window a direct line of fire at a person inside the station.

(4) *Vaults, safes, safe deposit boxes, night depositories, and automated paying or receiving machines.* Vaults, safes (if not to be stored in a vault), safe deposit boxes, night depositories, and automated paying or receiving machines, in any of which currency, negotiable securities, or similar valuables are to be stored when banking offices are closed, should meet or exceed the standards expressed in this section.

(i) *Vaults.* A vault is defined as a room or compartment that is designed for the storage and safekeeping of valuables and which has a size and shape which permits entrance and movement within by one or more persons. Other asset storage units which do not meet this definition of a vault will be considered as safes. Vaults contracted for after November 1, 1973,[2] should have walls, floor, and ceiling of reinforced concrete at least 12 inches in thickness.[3] The vault door should be made of steel at least 3½ inches in thickness, or other drill and torch resistant material, and be equipped with a dial combination lock, a time lock, and a substantial lockable day-gate. Electrical conduits into the vault should not exceed 1½ inches in diameter and should be offset within the walls, floor, or ceiling at least once so as not to form a direct path of entry. A vault ventilator, if provided, should be designed with consideration of safety to life without significant reduction of the strength of the vault wall to burglary attack. Alternatively, vaults should be so designed and constructed

[1] It should be emphasized that this thickness is merely bullet-resistant and not bullet-proof.

[2] Vaults contracted for previous to this date should be constructed in conformance with all applicable specifications then in effect.

[3] The reinforced concrete should have: Two grids of #5 (⅝" diameter) deformed steel bars located in horizontal and vertical rows in each direction to form grids not more than 4 inches on center; or two grids of expanded steel bank vault mesh placed parallel to the face of the walls, weighing at least 6 pounds per square foot to each grid, having a diamond pattern nor more than 3" x 8"; or two grids of any other fabricated steel placed parallel to the face of the walls, weighing at least 6 pounds per square foot to each grid and having an open area not exceeding 4 inches on center. Grids are to be located not less than 6 inches apart and staggered in each direction. The concrete should develop an ultimate compression strength of at least 3,000 pounds per square inch.

as to afford at least equivalent burglary resistance.[4]

(ii) *Safes.* Safes contracted for after February 15, 1969, should weigh at least 750 pounds empty, or be securely anchored to the premises where located. The body should consist of steel, at least 1 inch in thickness, either cast or fabricated, with an ultimate tensile strength of 50,000 pounds per square inch and be fastened in a manner equal to a continuous ¼ inch penetration weld having an ultimate tensile strength of 50,000 pounds per square inch. The door should be made of steel that is at least 1½ inch in thickness, and at least equivalent in strength to that specified for the body; and the door should be equipped with a combination lock, or time lock, and with a relocking device that will effectively lock the door if the combination lock or time lock is punched. One hole not exceeding ½ inch diameter may be provided in the body to permit insertion of electrical conductors, but should be located so as not to permit a direct view of the door or locking mechanism. Alternatively, safes should be constructed of materials that will afford at least equivalent burglary resistance.

(iii) *Safe deposit boxes.* Safe deposit boxes used to safeguard customer valuables should be enclosed in a vault or safe meeting at least the above-specified minimum protection standards.

(iv) *Night depositories.* Night depositories (excluding envelope drops not used to receive substantial amounts of currency) contracted for after February 15, 1969, should consist of a receptacle chest having cast or welded steel walls, top, and bottom, at least 1 inch in thickness; a steel door at least 1½ inches in thickness, with a combination lock; and a chute, made of steel that is at least 1 inch in thickness, securely bolted or welded to the receptacle and to a depository entrance of strength similar to the chute. Alternatively, night depositories should be so designed and constructed as to afford at least equivalent burglary resistance.[5] Each depository entrance (other than an envelope drop slot) should be equipped with a lock. Night depositories should be equipped with a burglar alarm and be designed to protect against the "fishing" of a deposit from the deposit receptacle, and to protect against the "trapping" of a deposit for extraction.

(v) *Automated paying or receiving machines.* Except as hereinafter provided, cash dispensing machines (automated paying machines), including those machines which also accept deposits (automated receiving machines) contracted for after November 1, 1973, should weigh at least 750 pounds empty, or be securely anchored to the premises where located. Cash dispensing machines should contain, among other features, a storage chest having cast or welded steel walls, top, and bottom, at least 1 inch in thickness, with a tensile strength of at least 50,000 pounds per square inch. Any doors should be constructed of steel at least equivalent in strength to the storage chest and be equipped with a combination lock and with a relocking device that will effectively lock the door if the combination lock is punched. The housing covering the cash dispensing opening in the storage chest and the housing covering the mechanism for removing the cash from the storage chest, should be so designed as to provide burglary resistance at least equivalent to the storage chest and should also be designed to protect against the "fishing" of cash from the storage chest. The cash dispensing control and delivering mechanism (and, when applicable, cash deposit receipt mechanism) should be protected by steel, at least ½ inch in thickness, securely attached to the storage chest. A cash dispensing machine which also receives deposits should have a receptacle chest having the same burglary resistant characteristics as that of cash dispensing storage chest and should be designed to protect against the fishing and trapping of deposits. Necessary ventilation for the automated machines should be designed so as to avoid significantly reducing the burglary resistance of the machines. The cash dispensing machine should also be designed so as to be protected against actuation by unauthorized persons, should be protected by a burglar alarm, and should be located in a well-lighted area. Alternatively, cash dispensing machines should be so designed and constructed as to afford at least equivalent burglary resistance.[6] A cash dispensing machine which is used inside a bank's premises only during bank business hours, and which is empty of currency and coin at all other times, should at least provide safeguards against "jimmying," unauthorized opening of the storage chest door, and against actuation by unauthorized persons.

By order of the Board of Governors, September 27, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-21276 Filed 10-5-73;8:45 am]

[4] Equivalent burglary-resistant materials for vaults do *not* include the use of a steel lining, either inside or outside a vault wall, in lieu of the specified reinforcement and thickness of concrete. Nonetheless, there may be instances, particularly where the construction of a vault of the specified reinforcement and thickness of concrete would require substantial structural modification of an existing building, where compliance with the specified standards would be unreasonable in cost. In those instances, the bank should comply with the procedure set forth in § 216.3(c) of Regulation P.

[5] Equivalent burglary-resistant materials for night depositories include the use of one-fourth inch steel plate encased in 6 inches or more of concrete or masonry building wall.

[6] Equivalent burglary-resistant materials for cash dispensing machines include the use of ⅜ inch thick nickel stainless steel meeting American Society of Testing Materials (ASTM) Designation A 167-70, Type 304, in place of 1 inch thick steel, if other criteria are satisfied.

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 326—MINIMUM SECURITY DEVICES AND PROCEDURES FOR INSURED NONMEMBER BANKS

Minimum Standards for Bank Security Devices

On January 3, 1973, notice of proposed rulemaking regarding the amendment of Appendix A of Part 326 of the regulations of the Federal Deposit Insurance Corporation establishing "Minimum Standards for Security Devices" was published in the FEDERAL REGISTER (38 FR 51). At that time, interested persons were given the opportunity to submit their views regarding the proposal and after consideration of all of the comments received the following amendment is hereby adopted:

APPENDIX A—MINIMUM STANDARDS FOR SECURITY DEVICES

In order to assure realization of maximum performance capabilities, all security devices utilized by a bank should be regularly inspected, tested, and serviced by competent persons. Actuating devices for surveillance systems and robbery alarms should be operable with the least risk of detection by unauthorized persons that can be practicably achieved.

(1) *Surveillance systems.*—(i) *General.* Surveillance systems should be:

(A) Equipped with one or more photographic, recording, monitoring, or like devices capable of reproducing images of persons in the banking office with sufficient clarity to facilitate (through photographs capable of being enlarged to produce a one-inch vertical head-size of persons whose images have been reproduced) the identification and apprehension of robbers or other suspicious persons;

(B) Reasonably silent in operation; and

(C) So designed and constructed that necessary services, repairs or inspections can readily be made. Any camera used in such a system should be capable of taking at least one picture every 2 seconds and, if it uses film, should contain enough unexposed film at all times to be capable of operating for not less than 3 minutes, and the film should be at least 16mm.

(ii) *Installation and operation of surveillance systems providing surveillance of other than walk-up or drive-in teller's stations or windows.* Surveillance devices for other than walk-up or drive-in teller's stations or windows should be:

(A) Located so as to reproduce identifiable images of persons either leaving the banking office or in a position to transact business at each such station or window; and

(B) Capable of actuation by initiating devices located at each teller's station or window.

(iii) *Installation and operation of surveillance systems providing surveillance of walk-up or drive-in teller's stations or windows.* Surveillance devices for walk-up or drive-in teller's stations or windows should be located in such a manner as to reproduce identifiable images of persons in a position to transact business at each such station or window and areas of such station or window that are vulnerable to robbery or larceny. Such devices should be capable of actuation by one or more initiating devices located within or in close proximity to such station or window. Such devices may be omitted in the case of a walk-up or drive-in teller's station or window in which the teller is effectively protected by a bullet-resistant barrier from persons outside the station or window. However, if the teller is vulnerable to larceny or robbery by members of the public who enter the banking office, the teller should have access to a device to actuate a surveillance system that covers the area of vulnerability or the exits to the banking office.

(2) *Robbery and burglary alarm systems.*—(i) *Robbery alarm systems.* A robbery alarm system should be provided for each banking office at which the police ordinarily can arrive within 5 minutes after an alarm is actuated; all other banking offices should be provided with appropriate devices for promptly notifying the police that a robbery has occurred or is in progress. Robbery alarm systems should be:

(A) Designed to transmit to the police, either directly or through an intermediary, a signal (not detectable by unauthorized persons) indicating that a crime against the banking office has occurred or is in progress;

(B) Capable of actuation by initiating devices located at each teller's station or window (except walk-up or drive-in teller's stations or windows in which the teller is effectively protected by a bullet-resistant barrier and effectively isolated from persons, other than fellow employees, inside a banking office of which such station or window may be a part);

(C) Safeguarded against accidental transmission of an alarm;

(D) Equipped with a visual and audible signal capable of indicating improper functioning of or tampering with the system; and

(E) Equipped with an independent source of power (such as a battery) sufficient to assure continuously reliable operation of the system for at least 24 hours in the event of failure of the usual source of power.

(ii) *Burglary alarm systems.* A burglary alarm system should be provided for each banking office. Burglary alarm systems should be:

(A) Capable of detecting promptly an attack on the outer door, walls, floor, or ceiling of each vault, and each safe not stored in a vault, in which currency, negotiable securities, or similar valuables are stored when the office is closed, and any attempt to move any such safe;

(B) Designed to transmit to the police, either directly or through an intermediary, a signal indicating that any such attempt is in progress; and for banking offices at which the police ordinarily cannot arrive within 5 minutes after an alarm is actuated, designed to actuate a loud sounding bell or other device that is audible inside the banking office and for a distance of approximately 500 feet outside the banking office;

(C) Safeguarded against accidental transmission of an alarm;

(D) Equipped with a visual and audible signal capable of indicating improper functioning of or tampering with the system; and

(E) Equipped with an independent source of power (such as a battery) sufficient to assure continuously reliable operation of the system for at least 80 hours in the event of failure of the usual source of power.

(3) *Walk-up and drive-in teller's stations or windows.* Walk-up and drive-in teller's stations or windows contracted for after February 15, 1969, should be constructed in such a manner that tellers are effectively protected by bullet-resistant barriers from robbery or larceny by persons outside such stations or windows. Such barriers should be of glass at least 1⁹/₁₆ inches in thickness,[1] or of material of at least equivalent bullet-resistance. Pass-through devices should be so designed and constructed as not to afford a person outside the station or window a direct line of fire at a person inside the station.

(4) *Vaults, safes, safe deposit boxes, night depositories, and automated paying or receiving machines.* Vaults, safes (if not to be stored in a vault), safe deposit boxes, night depositories, and automated paying or receiving machines, in any of which currency, negotiable securities, or similar valuables are to be stored when banking offices are closed, should meet or exceed the standards expressed in this section.

(i) *Vaults.* A vault is defined as a room or compartment that is designed for the storage and safekeeping of valuables and which has a size and shape which permits entrance and movement within by one or more persons. Other asset storage units which do not meet this definition of a vault will be considered as safes. Vaults contracted for after November 1, 1973,[2] should have walls, floor, and ceiling of reinforced concrete at least 12 inches in thickness.[3] The vault door should be made of steel at least 3½ inches in thickness, or other drill and torch resistant material, and be equipped with a dial combination lock, a time lock, and a substantial lockable day-gate. Electrical conduits into the vault should not exceed 1½ inches in diameter and should be offset within the walls, floor, or ceiling at least once so as not to form a direct path of entry. A vault ventilator, if provided, should be designed with consideration of safety to life without significant reduction of the strength of the vault wall to burglary attack. Alternatively, vaults should be so designed and constructed as to afford at least equivalent burglary resistance.[4]

(ii) *Safes.* Safes contracted for after February 15, 1969, should weigh at least 750 pounds empty, or be securely anchored to the premises where located. The body should consist of steel, at least 1 inch in thickness, either cast or fabricated, with an ultimate tensile strength of 50,000 pounds per square inch and be fastened in a manner equal to a continuous ¼ inch penetration weld having an ultimate tensile strength of 50,000 pounds per square inch. The door should be made of steel that is at least 1½ inch in thickness, and at least equivalent in strength to that specified for the body; and the door should be equipped with a combination lock, or time lock, and with a relocking device that will effectively lock the door if the combination lock or time lock is punched. One hole not exceeding ½ inch diameter may be provided in the body to permit insertion of electrical conductors, but should be located so as not to permit a direct view of the door or locking mechanism. Alternatively, safes should be constructed of materials that will afford at least equivalent burglary resistance.

(iii) *Safe deposit boxes.* Safe deposit boxes used to safeguard customer valuables should be enclosed in a vault or safe meeting at least the above-specified minimum protection standards.

(iv) *Night depositories.* Night depositories (excluding envelope drops not used to receive substantial amounts of currency) contracted for after February 15, 1969, should consist of a receptacle chest having cast or welded steel walls, top, and bottom, at least 1 inch in thickness; a steel door at least 1½ inches in thickness, with a combination lock; and a chute, made of steel that is at least 1 inch in thickness, securely bolted or welded to the receptacle and to a depository entrance of strength similar to the chute. Alternatively, night depositories should be so designed and constructed as to afford at least equivalent burglary resistance.[5] Each depository entrance (other than an envelope drop slot) should be equipped with a lock. Night depositories should be equipped with a burglar alarm and be designed to protect against the "fishing" of a deposit from the deposit receptacle, and to protect against the "trapping" of a deposit for extraction.

(v) *Automated paying or receiving machines.* Except as hereinafter provided, cash dispensing machines (automated paying machines), including those machines which also accept deposits (automated receiving machines) contracted for after November 1, 1973, should weigh at least 750 pounds empty, or be securely anchored to the premises where located. Cash dispensing machines should contain, among other features, a storage chest having cast or welded steel walls, top, and bottom, at least one inch in thickness, with a tensile strength of at least 50,000 pounds per square inch. Any doors should be constructed of steel at least equivalent in strength to the storage chest and be equipped with a combination lock and with a relocking device that will effectively lock the door if the combination lock is punched. The housing covering the cash dispensing opening in the storage chest and the housing covering the mechanism for removing the cash from the storage chest, should be so designed as to provide burglary resistance at least equivalent to the storage chest and should also be designed to protect against the "fishing" of cash from the storage chest. The cash dispensing control and delivering mechanism (and, when applicable, cash deposit receipt mechanism) should be protected by steel, at least ½ inch in thickness, securely attached to the storage chest. A cash dispensing machine which also receives deposits should have a receptacle chest having the same burglary resistant characteristics as that of cash dispensing storage chest and should be designed to protect against the fishing and trapping of deposits. Necessary ventilation for the automated machines should be designed so as to avoid significantly reducing the burglary resistance of the machines. The cash dispensing machine should also be designed so as to be protected against actuation by unauthorized persons, should be protected by a burglar alarm, and should be located in a well-lighted area. Alternatively, cash dispensing machines should be so designed and constructed as to afford at least equivalent burglary resistance.[6]

[1,2,3] See footnotes at end of document.

[4] See footnote at end of document.

[5] See footnote at end of document.

[1] It should be emphasized that this thickness is merely bullet-resistant and not bulletproof.

[2] Vaults contracted for previous to this date should be constructed in conformance with all applicable specifications then in effect.

[3] The reinforced concrete should have: two grids of #5 (⅝" diameter) deformed steel bars located in horizontal and vertical rows in each direction to form grids not more than 4 inches on center; or two grids of expanded steel bank vault mesh placed parallel to the face of the walls, weighing at least 6 pounds per square foot to each grid, having a diamond pattern not more than 3" x 8"; or two grids of any other fabricated steel placed parallel to the face of the walls, weighing at least 6 pounds per square foot to each grid and having an open area not exceeding 4 inches on center. Grids are to be located not less than 6 inches apart and staggered in each direction. The concrete should develop an ultimate compression strength of at least 3,000 pounds per square inch.

[4] Equivalent burglary-resistant materials for vaults do *not* include the use of a steel lining, either inside or outside a vault wall, in lieu of the specified reinforcement and thickness of concrete. Nonetheless, there may be instances, particularly where the construction of a vault of the specified reinforcement and thickness of concrete would require substantial structural modification of an existing building, where compliance with the specified standards would be unreasonable in cost. In those instances, the bank should comply with the procedure set forth in § 326.3(c) of Part 326.

[5] Equivalent burglary-resistant materials for night depositories include the use of ¼ inch steel plate encased in 6 inches or more of concrete or masonry building wall.

[6] Equivalent burglary-resistant materials for cash dispensing machines include the use of ⅜ inch thick nickel stainless steel meeting American Society of Testing Materials (ASTM) Designation A 167-70, Type 304, in place of 1 inch thick steel, if other criteria are satisfied.

A cash dispensing machine which is used inside a bank's premises only during bank business hours, and which is empty of currency and coin at all other times, should at least provide safeguards against "jimmying," unauthorized opening of the storage chest door, and against actuation by unauthorized persons.

Effective.—November 1, 1973 by Order of the Board of Directors.

Dated October 1, 1973.

[SEAL] ALAN R. MILLER,
Executive Secretary.

[FR Doc.73-21145 Filed 10-5-73;8:45 am]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

[No. 73-1375]

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563a—MINIMUM SECURITY DEVICES AND PROCEDURES

Minimum Standards for Security Devices of Certain Savings and Loan Associations

As part of its responsibilities under the Bank Protection Act of 1968 (82 Stat. 294, 12 U.S.C. 1881), the Board conducts a continuing review of the minimum standards for security devices of institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation. On December 21, 1972, the Board proposed to revise Appendix A, entitled "Minimum Standards for Security Devices", of Part 563a of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563a), entitled "Minimum Security Devices and Procedures".

The proposed Appendix A clarified standards with which each institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation must comply regarding the installation, maintenance, and operation of security devices to discourage robberies, burglaries, and larcenies and to assist in the identification and apprehension of persons who commit such acts. Among the proposed revisions were a definition of vaults as distinguished from safes, protection standards for cash dispensing machines, a clarification of the requirements that safe deposit boxes be stored in an approved vault or safe and regulatory language making it clear that fully automated satellite offices are not required to have surveillance and robbery alarm systems.

After consideration of all comments received, the Board has decided to adopt the proposal with slight modifications. The sections on cash dispensing machines, the use of steel liners in vaults, and the definition of vaults have been reworded principally for greater clarity. The other revisions proposed in the earlier announcement have been incorporated into the appendix.

Effective November 1, 1973, the Board hereby amends Appendix A of said Part 563a to read as follows:

APPENDIX A

MINIMUM STANDARDS FOR SECURITY DEVICES

In order to assure realization of maximum performance capabilities, all security devices utilized by an insured institution should be regularly inspected, tested, and serviced by competent persons. Actuating devices for surveillance systems and robbery alarms should be operable with the least risk of detection by unauthorized persons that can be practicably achieved.

1. *Surveillance systems.*—(a) *General.* Surveillance systems should be:

(1) Equipped with one or more photographic, recording, monitoring, or like devices capable of reproducing images of persons in the institution's office with sufficient clarity to facilitate (through photographs capable of being enlarged to produce a one-inch vertical head-size of persons whose images have been reproduced) the identification and apprehension of robbers or other suspicious persons;

(2) Reasonably silent in operation; and

(3) So designed and constructed that necessary services, repairs or inspections can readily be made.

Any camera used in such a system should be capable of taking at least one picture every 2 seconds and, if it uses film, should contain enough unexposed film at all times to be capable of operating for not less than 3 minutes, and the film should be at least 16mm.

(b) *Installation and operation of surveillance systems providing surveillance of other than walk-up or drive-in teller's stations or windows and fully automated stations.* Surveillance devices for other than walk-up or drive-in teller's stations or windows and fully automated stations should be:

(1) Located so as to reproduce identifiable images of persons either leaving the office or in a position to transact business at each such station or window; and

(2) Capable of actuation by initiating devices located at each teller's station or window.

(c) *Installation and operation of surveillance systems providing surveillance of walk-up or drive-in teller's stations or windows.* Surveillance devices for walk-up or drive-in teller's stations or windows should be located in such a manner as to reproduce identifiable images of persons in a position to transact business at each such station or window and areas of such station or window that are vulnerable to robbery or larceny. Such devices should be capable of actuation by one or more initiating devices located within or in close proximity to such station or window. Such devices may be omitted in the case of a walk-up or drive-in teller's station or window in which the teller is effectively protected by a bullet-resistant barrier from persons outside the station or window. However, if the teller is vulnerable to larceny or robbery by members of the public who enter the office, the teller should have access to a device to actuate a surveillance system that covers the area of vulnerability or the exits to the office.

2. *Robbery and burglary alarm systems.*—(a) *Robbery alarm systems.* A robbery alarm system should be provided for each office which is vulnerable to robbery and at which the police ordinarily can arrive within 5 minutes after an alarm is actuated; all other such offices should be provided with appropriate devices for promptly notifying the police that a robbery has occurred or is in progress. Robbery alarm systems should be:

(1) Designated to transmit to the police, either directly or through an intermediary, a signal (not detectable by unauthorized persons) indicating that a crime against the office has occurred or is in progress;

(2) Capable of actuation by initiating devices located at each teller's station or window (except walk-up or drive-in teller's stations or windows in which the teller is effectively protected by a bullet-resistant barrier and effectively isolated from persons, other than fellow employees, inside an office of which such station or window may be a part);

(3) Safeguarded against accidental transmission of an alarm;

(4) Equipped with a visual and audible signal capable of indicating improper functioning of or tampering with the system; and

(5) Equipped with an independent source of power (such as a battery) sufficient to assure continuously reliable operation of the system for at least 24 hours in the event of failure of the usual source of power.

(b) *Burglary alarm systems.* A burglary alarm system should be provided for each office. Burglary alarm systems should be:

(1) Capable of detecting promptly an attack on a full, automated station and on the outer door, walls, floor, or ceiling of each vault, and each safe not stored in a vault, in which currency, negotiable securities, or similar valuables are stored when the office is closed, and any attempt to move any such safe;

(2) Designed to transmit to the police, either directly or through an intermediary, a signal indicating that any such attempt is in progress; and for fully automated stations and other offices at which the police ordinarily cannot arrive within 5 minutes after an alarm is actuated, designed to actuate a loud sounding bell or other device that is audible inside the office and for a distance of approximately 500 feet outside the station or office;

(3) Safeguarded against accidental transmission of an alarm;

(4) Equipped with a visual and audible signal capable of indicating improper functioning of or tampering with the system; and

(5) Equipped with an independent source of power (such as a battery) sufficient to assure continuously reliable operation of the system for at least 80 hours in the event of failure of the usual source of power.

3. *Walk-up and drive-in teller's stations or windows.* Walk-up and drive-in teller's stations or windows contracted for after February 15, 1969, should be constructed in such a manner that tellers are effectively protected by bullet-resistant barriers from robbery or larceny by persons outside such stations or windows. Such barriers should be of glass at least 1⅜ inches in thickness,[1] or of material of at least equivalent bullet-resistance. Pass-through devices should be so designed and constructed as not to afford a person outside the station or window a direct line of fire at a person inside the station.

4. *Vaults, safes, safe deposit boxes, night depositories, and automated paying or receiving machines.* Vaults, safes (if not to be stored in a vault), safe deposit boxes, night depositories, and automated paying or receiving machines, in any of which currency, negotiable securities, or similar valuables are to be stored in fully automated stations or when offices are closed, should meet or exceed the standards expressed in this section.

(a) *Vaults.* A vault is defined as a room or compartment that is designed for the storage and safekeeping of valuables and

[1] It should be emphasized that this thickness is merely bullet-resistant and not bulletproof.

which has a size and shape which permits entrance and movement within by one or more persons. Other asset storage units which do not meet this definition of a vault will be considered as safes. Vaults contracted for after November 1, 1973,[2] should have walls, floor, and ceiling of reinforced concrete at least 12 inches in thickness.[3] The vault door should be made of steel at least 3½ inches in thickness, or other drill and torch resistant material, and be equipped with a dial combination lock, a time lock, and a substantial lockable day-gate. Electrical conduits into the vault should not exceed 1½ inches in diameter and should be offset within the walls, floor, or ceiling at least once so as not to form a direct path of entry. A vault ventilator, if provided, should be designed with consideration of safety to life without significant reduction of the strength of the vault wall to burglary attack. Alternatively, vaults should be so designed and constructed as to afford at least equivalent burglary resistance.[4]

(b) *Safes.* Safes contracted for after February 15, 1969, should weigh at least 750 pounds empty, or be securely anchored to the premises where located. The body should consist of steel, at least 1 inch in thickness, either cast or fabricated, with an ultimate tensile strength of 50,000 pounds per square inch and be fastened in a manner equal to a continuous ¼ inch penetration weld having an ultimate tensile strength of 50,000 pounds per square inch. The door should be made of steel that is at least 1½ inches in thickness, and at least equivalent in strength to that specified for the body; and the door should be equipped with a combination lock, or time lock, and with a relocking device that will effectively lock the door if the combination lock or time lock is punched. One hole not exceeding ½ inch diameter may be provided in the body to permit insertion of electrical conductors, but should be located so as not to permit a direct view of the door or locking mechanism. Alternatively, safes should be constructed of materials that will afford at least equivalent burglary resistance.

(c) *Safe deposit boxes.* Safe deposit boxes used to safeguard customer valuables should be enclosed in a vault or safe meeting at least the above-specified minimum protection standards.

(d) *Night depositories.* Night depositories (excluding envelope drops not used to receive substantial amounts of currency) contracted for after February 15, 1969, should consist of a receptacle chest having cast or welded steel walls, top, and bottom, at least 1 inch in thickness; a steel door at least 1½ inches in thickness, with a combination lock; and a chute, made of steel that is at least 1 inch in thickness, securely bolted or welded to the receptacle and to a depository entrance of strength similar to the chute. Alternatively, night depositories should be so designed and constructed as to afford at least equivalent burglarly resistance.[5] Each depository entrance (other than an envelope drop slot) should be equipped with a lock. Night depositories should be equipped with a burglar alarm and be designed to protect against the "fishing" of a deposit from the deposit receptacle, and to protect against the "trapping" of a deposit for extraction.

(e) *Automated paying or receiving machines.* Except as hereinafter provided, cash dispensing machines (automated paying machines), including those machines which also accept payments on savings accounts and/or loans (automated receiving machines) contracted for after November 1, 1973, should weigh at least 750 pounds empty, or be securely anchored to the premises where located. Cash dispensing machines should contain, among other features, a storage chest having cast or welded steel walls, top, and bottom, at least one inch in thickness, with a tensile strength of at least 50,000 pounds per square inch. Any doors should be constructed of steel at least equivalent in strength to the storage chest and be equipped with a combination lock and with a relocking device that will effectively lock the door if the combination lock is punched. The housing covering the cash dispensing opening in the storage chest and the housing covering the mechanism for removing the cash from the storage chest, should be so designed as to provide burglary-resistance at least equivalent to the storage chest and should also be designed to protect against the "fishing" of cash from the storage chest. The cash dispensing control and delivering mechanism (and, when applicable, cash-payment-receipt mechanism) should be protected by steel, at least ½ inch in thickness, securely attached to the storage chest. A cash dispensing machine which also receives payments on savings accounts and/or loans should have a receptacle chest having the same burglary-resistant characteristics as that of cash dispensing storage chest and should be designed to protect against the fishing and trapping of payments. Necessary ventilation for the automated machines should be designed so as to avoid significantly reducing the burglary-resistance of the machines. The cash dispensing machine should also be designed so as to be protected against actuation by unauthorized persons, should be protected by a burglar alarm, and should be located in a well lighted area. Alternatively, cash dispensing machines should be so designed and constructed as to afford at least equivalent burglary-resistance.[6] A cash dispensing machine which is used inside an insured institution's premises only during business hours, and which is empty of currency and coin at all other times, should at least provide safeguards against "jimmying", unauthorized opening of the storage chest door, and against actuation by unauthorized persons.

(Sec. 402, 48 Stat. 1256, as amended; Sec. 3, 82 Stat. 235; 12 U.S.C. 1725, 1832, Reorg. Plan No. 3 of 1947, 12 FR 4931, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.73-21124 Filed 10-5-73;8:45 am]

CHAPTER VI—FARM CREDIT ADMINISTRATION

Miscellaneous Amendments

The Farm Credit Administration, by its Federal Farm Credit Board, took final action on amendments to its regulations and authorized their issuance effective September 29, 1973. These amendments, (1) clarify the provision for compensation of district board members, (2) clarify that special assignments of district board members may be requested by the Farm Credit Administration, (3) provide for the exclusion of certain special assignments of district board members from the 30-day limitation thereon, (4) provide for the establishment by the district board of policies regarding the compensation of association directors and members, (5) provide for the reemployment of annuitants under certain circumstances, (6) specify the circumstances under which certain bank or association facilities and resources may be used in the interest of candidates for certain offices, (7) substitute the designation "finance committee or subcommittee" for the former "bond or debenture committee," (8) authorize the supervisory bank in place of the bank board to act in possible conflict of interest cases where the employee interest is trivial, (9) delegate to the district bank authority to make prior determinations of eligibility of subsidiaries of certain legal entities subject to post review by the Farm Credit Administration, (10) omit the provision dealing with the financing of other requirements of eligible borrowers and incorporate guidelines therefor in a revised section dealing with lending objectives, (11) require bank board to adopt policies subject to the approval of the Farm Credit Administration to achieve System lending objectives, (12) provide for making special intermediate term loans to producers and harvesters of aquatic products, (13) remove the present expiration date of the provision for

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[2] Vaults contracted for previous to this date should be constructed in conformance with all applicable specifications then in effect.

[3] The reinforced concrete should have: two grids of #5 (⅝" diameter) deformed steel bars located in horizontal and vertical rows in each direction to form grids not more than 4 inches on center; or two grids of expanded steel bank vault mesh placed parallel to the face of the walls, weighing at least 6 pounds per square foot to each grid, having a diamond pattern not more than 3" x 8"; or two grids of any other fabricated steel placed parallel to the face of the walls, weighing at least 6 pounds per square foot to each grid and having an open area not exceeding 4 inches on center. Grids are to be located not less than 6 inches apart and staggered in each direction. The concrete should develop an ultimate compression strength of at least 3,000 pounds per square inch.

[4] Equivalent burglary-resistant materials for vaults do *not* include the use of a steel lining, either inside or outside a vault wall, in lieu of the specified reinforcement and thickness of concrete. Nonetheless, there may be instances, particularly where the construction of a vault of the specified reinforcement and thickness of concrete would require substantial structural modification of an existing building, where compliance with the specified standards would be unreasonable in cost. In those instances, the institution should comply with the procedure set forth in paragraph (c) of § 563a.3.

[5] Equivalent burglary-resistant materials for night depositories include the use of one-fourth inch steel plate encased in 6 inches or more of concrete or masonry building wall.

[6] Equivalent burglary-resistant materials for cash dispensing machines include the use of ⅜ inch thick nickel stainless steel meeting American Society of Testing Materials (ASTM) Designation A 167-70, Type 304, in place of 1 inch thick steel, if other criteria are satisfied.

production credit association lending limits, (14) restate loan approval requirements, (15) broaden the authority for first lien determinations, (16) substitute the designation "consolidated obligations" for "bond and debenture" as a change in terminology, (17) provide for approval by the supervising bank in place of the bank board of the purchase, construction, or sale of association buildings, with a report to the board and within board guidelines, (18) require annual review by the supervising bank of association investment portfolios instead of the annual listing by the association, (19) authorize associations also to deposit current funds with savings institutions insured by the Federal Deposit Insurance Corporation, (20) authorize a bank for cooperatives to retire equities in accordance with bank board policy in place of board action, (21) revise the land bank provisions for losses, (22) provide for approval by the land bank of Federal land bank association declaration of dividends, (23) include the premium rate for the shipment of valuables by registered airmail, (24) provide for mailing of negotiable securities by registered insured mail, (25) provide for the development and adoption by an association board of travel regulations subject to approval by the supervising bank, (26) clarify the circumstances under which access to association borrower records by certain agency representatives will be authorized, (27) authorize the supervising bank to approve association records disposal schedules.

By a notice published in the FEDERAL REGISTER on August 23, 1973, interested persons were afforded the opportunity to file written comments or suggestions on the proposed amendments not later than September 21, 1973. Written comments were received both before and after September 21. All comments were considered prior to the final action on the proposed amendments by the Federal Farm Credit Board. Copies of all communications received are available for examination by interested persons in the Office of the Director of Information, Farm Credit Administration.

Chapter VI of Title 12 of the Code of Federal Regulations is amended by revising §§ 611.1020, 611.1030, 611.1031, 611.1080, 612.2050, paragraph (b) of § 612.2130, paragraph (i) of § 612.2160, § 612.2170, revising paragraph (d) and deleting paragraph (g) of § 613.3020, revising §§ 614.4160, paragraph (c) of § 614.4200, 614.4353, 614.4450, deleting § 614.4490, adding §§ 614.4460, 614.4470, deleting § 614.4501, revising paragraph (a) of § 615.5060, paragraph (o) and the unlettered last paragraph of § 615.5140, §§ 615.5150 (a) and (b), 615.5180, 615.5190, 615.5260 (a), 615.5340, 615.5410, 615.5500, 615.5530, 618.8270, paragraph (b) (2) of § 618.8320, § 618.8370. These amendments are as follows:

PART 611—ORGANIZATION

§ 611.1020 Compensation of district board members.

Directors may be compensated for attendance at board meetings and special assignments, including reasonable travel time from and to their residences. Such compensation shall not exceed $75 per day plus reasonable travel, subsistence, and other related expenses incurred in connection with such meetings and assignments.

§ 611.1030 Special assignments of district board members.

Special assignments requiring the services of a director shall be authorized under a policy established by either the district board or the board of one of the banks, whichever is appropriate. Special assignments also may be requested by the Farm Credit Administration.

§ 611.1031 Limitation on special assignments.

Special assignments requiring service in one calendar year totaling more than 30 days (not counting time needed for attendance at board meetings) must have the prior approval of the Farm Credit Administration. Prior approval is hereby given for the following and they may be excluded from the 30 day limitation: attendance at the National Farm Credit Directors Conferences; meetings of the Fiscal Agency Committee; meetings of the District Directors Policy Coordinating Committee; and attendance at a particular time or place requested by the Farm Credit Administration.

§ 611.1080 Association establishment, election of directors, and compensation of members.

As used throughout these regulations, the term "association" is restricted to Federal land bank associations and production credit associations. Section 1.13 of the Act provides for the establishment of Federal land bank associations and sec. 1.14 provides for the election of their boards of directors. Section 2.10 of the Act provides for the establishment of the production credit associations and sec. 2.11 provides for the election of their boards of directors. The district board shall establish policies regarding the compensation of association directors and members performing special services for the association which include the amount and number of honoraria which may be paid to one individual for service on one day and the manner in which reasonable travel, subsistence and other related expenses will be paid. Additional provisions are contained in the bylaws for both.

PART 612—PERSONNEL ADMINISTRATION

§ 612.2050 Reemployment of annuitants.

As a general policy, plans should be made in advance by banks and associations to recruit and train qualified replacements for prospective vacancies because of approaching retirements or other reasons which can be anticipated. When definite recruiting efforts have failed to produce other qualified applicants for the positions, an annuitant may be reemployed as follows:

(a) An annuitant may be reemployed on a temporary basis to any position, including a position in which he will assume the full range of duties and responsibilities that he had prior to retirement. A temporary appointment is defined as an appointment not to exceed one year.

(b) An annuitant may be reemployed on a permanent basis, provided he does not assume the full range of duties and responsibilities that he had prior to retirement.

(c) A former senior officer may not be reemployed in a position having senior officer responsibilities.

(d) If the annuitant has retired under the Civil Service Retirement Act, he may be appointed as provided in paragraphs (a) and (b) of this section, only after a break in service of more than three consecutive calendar days.

(e) Other cases require prior approval of the Farm Credit Administration.

§ 612.2130 Soliciting support in polls for district or Federal Farm Credit Board membership.

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(b) No bank or association property, transportation, communications and official stationery shall be used in the interest of any candidate, unless the same facilities and resources are simultaneously made known to and are available for use by all candidates.

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§ 612.2160 Prohibited acts for salaried employees.

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(i) Shall, while he serves on a finance committee or subcommittee thereof, purchase or acquire, directly or indirectly, ownership of any interest in any obligations of the bank or banks for which he participated in establishing rates; or

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§ 612.2170 Cases involving trivial interest or relationship.

If the degree of interest, relationship or benefit in any case, as determined by the supervisory bank, is so trivial as to create little probability that officer's or employee's impartiality of judgment and action has been affected, no question under § 612.2160 shall be deemed involved. Each case shall be determined on its own facts, proper weight being given to the nature, amount and importance of the benefit involved, the degree or kind of relationship in question, and the character of the person concerned. Each determination made by the bank shall be reported to the bank board at its next meeting for consideration.

PART 613—ELIGIBILITY AND SCOPE OF FINANCING

§ 613.3020 Farmers and ranchers.

* * * * *

(d) In addition, any loan to a legal entity in which at least 50 percent of ownership or the control is vested in another legal entity that does not meet at least one of the preceding three requirements shall be subject to prior approval

of the appropriate bank and submitted to the Farm Credit Administration for post review. Unless it can be found that such owned or controlled legal entity can operate its business as a counterpart to the normal farm businesses eligible to borrow, without jeopardy to such normal farm businesses or the general agricultural economy, approval will not be granted. Submissions shall fully document the ownership structure, the business affiliations of those owning or controlling the applicant, and the compatibility of the applicant's farming business to the normal farm business operating in the area or to the general agricultural economy.

* * * * *

(g) [Deleted]

PART 614—LOAN POLICIES AND OPERATIONS

§ 614.4160 Lending objective.

(a) It is the objective of the Farm Credit System to ensure the availability of: (1) full credit, to the extent of credit worthiness, to the full-time bona fide farmer (farming is his primary business and vocation) and (2) conservative credit to less than full-time farmers for agricultural enterprises, and more restricted credit for other credit requirements as needed to ensure a sound credit package or to accommodate a borrower's needs as long as the total credit results in being primarily an agricultural loan. However, the part-time farmer who needs to seek off-farm employment to supplement his farm income or who desires to supplement his off-farm income by living in a rural area and is carrying on a valid farming operation, shall have availability of credit for mortgages, other agricultural purposes, and family needs in the preferred position along with full-time farmers. Loans to farmers shall be on an increasingly conservative basis as the emphasis moves away from the full-time bona fide farmer, to the point where agricultural needs only will be financed for the applicant whose business is essentially other than farming. Credit shall not be extended where investment in agricultural assets for speculative appreciation is a primary factor.

(b) It is also the objective of the Farm Credit System to provide a full range of credit services to farmer cooperatives to assist them in increasing the income of their members as patrons. The type of farmer cooperative operation, quality of management, and basic financial factors shall be carefully evaluated as to their effect upon the long-range benefit to members. Bank boards shall establish policies and banks for cooperatives, develop procedures for administration of quality standards that fully consider the needs of, support by, and service performed for members, and risk protection afforded the lender.

(c) Each bank board shall adopt policies adequate to provide the direction it desires management to follow in administering credit and lending standards to ensure attainment of the System's objective. Bank management shall prescribe operating procedures to effectively administer board policies including provision that proper weight be given the infinite combination of person, property, and purpose which can exist. Guidelines shall be included which provide for identification of that portion of mixed value (agricultural and nonagricultural) assets which may be considered agricultural for lending purposes.

§ 614.4200 Production credit associations.

* * * * *

(c) Special intermediate-term loans, exclusive of loans to nonfarm rural residents, and farm-related businesses, may be made with maximum maturity not to exceed 7 years realizing, however, when establishing repayment that forbearance or extension may be necessary under the following circumstances.

(1) When specific capital items are being financed, such as new equipment, new or remodeled buildings, or facilities with a useful life and value, after normal depreciation and obsolescence, which exceeds the term of the loan at all times.

(2) When real estate mortgage credit is unavailable, not acceptable to the applicant, or impractical for reasons such as cost or delay in availability.

(3) When earnings' history, repayment record and net earnings projections satisfactorily support the loan and provide assurance for final repayment within three additional years if forbearance or extension is granted.

(4) Before any special intermediate-term loans shall be made, the district board shall adopt a policy, and the Federal intermediate credit bank and the Federal land bank of the district shall develop procedures regulating the making of such loans, all of which shall be subject to approval of the Farm Credit Administration. Such policies and procedures shall include but are not limited to the following.

(i) Provisions for cooperation between production credit associations and Federal land bank associations in the consideration of any loans bordering on the long-term mortgage category.

(ii) Procedures to be followed in credit reviews and credit examinations whereby loans of this type, made during the period covered by the examination, will be reviewed and commented upon as to compliance with policy and procedures.

(iii) Provisions for adequate reporting on loans of this type to enable timely supervision by the bank.

§ 614.4353 Production credit associations.

* * * * *

Production credit associations shall have a lending limit (including participations) of 50 percent of the capital and surplus of the lending association. A lending limit of 100 percent of the capital and surplus of the lending association shall apply whenever an approved loss-sharing agreement is in force.

§ 614.4450 General requirements.

Authority for loan approval is primarily vested in the Farm Credit banks and associations. However, to provide proper supervision of the System's lending functions, the Act vests in the Farm Credit Administration the authority to prescribe the loans which can be made only with the prior approval of the Farm Credit Administration or the respective banks. Prior loan approval limits shall be established on an individual bank basis according to the adequacy and administration of policies and procedures relating to credit extension. Consideration shall also be given to performance in making proper credit analysis and decisions and compliance with Farm Credit law and regulations. For the Federal land banks and Federal intermediate credit banks particular consideration shall be given to policies and procedures and bank performance relating to delegation of loan-making authority to associations, credit reviews and association supervision.

§ 614.4460 Loan approval responsibility.

Approval of the following loans is the responsibility of each district board of directors. The responsibility may be discharged by prior approval of such loans by the appropriate bank board, establishment of a policy under which such loans are to be submitted to the Farm Credit Administration for prior approval, or establishment of a policy under which the authority to approve such loans is delegated to bank management (except paragraphs (d) and (e) of this section which cannot be delegated to management). If the approval of such loans is to be delegated to bank management, the loans are to be submitted promptly for post review by the bank board and the Farm Credit Administration and a report disclosing all material facts relating to the credit relationship involved shall be submitted annually by bank management to the district board with a copy to the Farm Credit Administration for post review.

(a) Loans to a member of the Federal Farm Credit Board.

(b) Loans to a member of the district board.

(c) Loans to a cooperative of which a member of the district bank or Central Bank board of directors or a member of the Federal Farm Credit Board is a member of the board of directors, an officer, or employee.

(d) Loans to the President of Farm Credit bank.

(e) Loans to employees of the Farm Credit Administration.

(f) Loans where directors, officers or employees designated above

(i) are to receive proceeds of the loan in excess of an amount prescribed by an appropriate bank board and approved by the Farm Credit Administration, or

(ii) are stockholders or owners of equity in a legal entity to which the loan is to be made wherein they have a significant personal or beneficial interest in the loan proceeds thereof or the security.

§ 614.4470 Loans subject to bank prior approval.

The following loans shall be subject to prior approval of the district bank.

(a) Loans to a member of an association board.

(b) Loans to an officer or employee of a Farm Credit bank or an employee of an association.

(c) Loans to any borrower where the directors or employees designated above

(i) are to receive proceeds of the loan in excess of amount prescribed by the appropriate bank board and approved by the Farm Credit Administration, or

(ii) are stockholders or owners of equity in a legal entity to which a loan is to be made wherein they have a significant personal or beneficial interest in the loan, the proceeds thereof or the security.

(d) Any loan which will result in any one borrower being obligated, as defined in § 614.4360, in excess of an amount established by the district bank under its policies for delegation of authority to associations.

§ 614.4501 [Reserved]

PART 615—FUNDING AND FISCAL AFFAIRS

§ 615.5060 Eligible Federal land bank collateral.

(a) To the extent of the net asset value thereof, notes and other obligations representing loans made or acquired under these regulations are eligible as collateral for long-term notes, bonds, or similar obligations upon certification by the bank attorney or another attorney designated to act for the bank that the interest of the bank in the primary real estate loan security is a first lien or its equivalent from a security standpoint. The attorney lien certification need not be obtained prior to the time such notes and other obligations are accepted as collateral if the chief counsel for the bank has determined in writing that title examination, loan closing, and other appropriate bank procedures provide sufficient safeguards to assure that a loan made by the bank will be secured by a first lien or its equivalent from a security standpoint on the primary real estate security; however, a note or other obligation taken in connection with a loan shall be withdrawn from collateral upon the expiration of one year from the date of loan closing unless, before the end of such period, an attorney has certified that the interest of the bank in the primary real estate security for that loan is a first lien or its equivalent from a security standpoint.

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§ 615.5140 Investment eligibility.

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(o) *Other types of obligations authorized by the Farm Credit Administration.* Any eligible investment with a maturity of 12 months or less from the date of pledge shall be valued at face value for collateral purposes supporting consolidated obligations issues. Any eligible investment with a maturity of over 12 months from the date of pledge shall be valued at market value for collateral purposes supporting consolidated obligations issues.

§ 615.5150 Real and personal property.

(a) Real estate and personal property may be acquired, held or disposed of by any Farm Credit institution for the necessary and normal operations of its business. The purchase or construction of office quarters shall be limited to facilities reasonably necessary to meet the foreseeable requirements of the institution. Property shall not be acquired if it involves, or appears to involve, to a substantial degree, a bank or association in the real estate or other unrelated business.

(b) The purchase, construction, or sale of Farm Credit bank buildings and appurtenances shall have approval of the Farm Credit Administration. Likewise, purchase, construction, or sale of Federal land bank association or production credit association buildings and appurtenances shall have the approval of the appropriate supervising bank which shall keep the bank board currently advised of such actions. In the case of joint association office buildings, these actions shall be approved jointly by the supervising banks. It shall be the responsibility of the district board to approve guidelines for all associations in the district to follow regarding the purchase, construction, or sale of office space. Within the framework of said guidelines, the Federal land banks and Federal intermediate credit banks may prescribe criteria which can include giving limited prior approval to an association board of directors for office facilities actions.

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§ 615.5180 Association investment portfolios.

The Federal land banks and the Federal intermediate credit banks shall review annually as of June 30 or December 31 the investment portfolio and investment objectives of each association. Associations shall own such securities selected from approved investments in § 615.5140 as the supervising bank shall require. The banks shall assist the associations in the management of their investment portfolios.

§ 615.5190 General.

All institutions of the Farm Credit System may deposit securities and current funds with and receive interest from any member bank of the Federal Reserve System, or any savings institution insured by the Federal Savings and Loan Insurance Corporation. Associations may deposit funds with their supervising bank, any commercial bank insured by the Federal Deposit Insurance Corporation, or any savings institution insured by the Federal Savings and Loan Insurance Corporation.

§ 615.5260 Retirement of capital stock and allocated equities of banks for cooperatives.

(a) In case of liquidation or dissolution of a present or former borrower, the bank may, but shall not be required to, retire and cancel at book value, not exceeding part, all or a part of the capital stock or any allocated equity in the bank owned by or allocated to such borrower. Before any such retirement shall be made, the banks shall have reasonable assurance that the liquidation or dissolution is or soon will be completed and the business of the borrower is not being continued under circumstances in which it would be appropriate and feasible for any successor to acquire and hold the investment interests of the present or former borrowers in the bank. Retirements under this provision shall be authorized in accordance with bank board policy.

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§ 615.5340 Land bank system provision for losses.

(a) Each bank shall establish and maintain a provision for losses account on loans, participations purchased, real estate sales contracts, advances, accrued interest on loans, acquired property, and loans in the process of liquidation or foreclosure, and judgments.

(b) Each association shall establish and maintain a provision for losses to the extent that it shows assets of the above type on its books of account or has a contingent liability to restore losses on such assets by reason of its endorsement, loss sharing agreement(s), or pledge. The amount of the association's indemnity account credits may be used to meet an equal amount of its provisions for losses requirements.

(c) The provision for losses provided in paragraphs (a) and (b) of this section shall be in such reasonable amounts as, in the judgment of the bank and association, are considered adequate to meet such losses, subject to the following minimum fiscal year end requirements:

(1) The total of each association's provision for losses and indemnity account shall equal at least one percent of the amount of its contingent liability on the unmatured balance of loans outstanding.

(2) Each bank's provision for losses shall include:

(i) The amount of any association indemnity account credits used by associations to meet their provision for losses requirements, plus

(ii) One percent of that portion, not guaranteed by the endorsement liability, of the unmatured balance of its loans outstanding, plus

(iii) The aggregate amount that each association's provision for losses and indemnity account credits are less than the minimum amounts required by this section.

An association's provision for losses program and changes therein shall be approved by the association board of directors and the bank. The bank's provision for losses program and changes therein shall be approved by the bank board of directors and the Farm Credit Administration.

§ 615.5410 Federal land bank system.

(a) Noncumulative dividends may be paid out of earnings or from earned surplus on stock and participation certificates at varying rates on different classes and issues on a basis of the comparative contribution of the holders to the capital or earnings, but otherwise dividends shall be paid without preference.

(b) Dividends as in paragraph (a) of this section may be paid in accordance with the provisions of the bylaws after the establishment and maintenance of the provisions for losses required in § 615.5340 of these regulations, the reserve described in secs. 1.17(a) and 1.18 (a) and (b) of the Act and after the payment of its franchise tax to the United States Government, if any.

(c) Declarations of Federal land bank dividends are subject to the approval of the Farm Credit Administration.

(d) Declarations of Federal land bank association dividends are subject to the approval of the bank.

§ 615.5500 Shipment of valuables.

Shipments of valuables by the Federal land banks, Federal land bank associations, Federal intermediate credit banks, banks for cooperatives, and production credit associations, when made to or by others for the account of the assured, shall be covered by an insurance policy issued in the name of five companies, through John L. Swan & Co., Inc., broker, copies of which have been furnished the land banks, credit banks, and banks for cooperatives. Premium rates per $1,000 on general shipments of securities and other valuables shall be $0.04 by registered mail or registered airmail, and on shipments of canceled coupons and canceled securities shall be $0.01 by registered mail or express ($0.02 by registered airmail).

§ 615.5530 Mail shipments.

Negotiable securities shall be declared at their market value on the date of mailing and shipped by registered insured mail. Nonnegotiable or canceled securities, warehouse receipts, and valuable papers such as checks, drafts, deeds, abstracts and similar documents may be declared at no value and sent by registered mail. If it is determined that no indemnity from the post office will be required should such papers be lost or destroyed, the shipper may send them by certified mail or first class mail in his discretion.

PART 618—GENERAL PROVISIONS

§ 618.8270 Travel.

Travel and subsistence expenses of officials and employees of the banks shall be allowed in accordance with travel regulations adopted by the district board. Similar travel regulations shall be prescribed for associations by the supervising bank under policy established by the district board or shall be developed and adopted by the board of directors of the associations and approved by the bank. The regulations shall contain a statement of policy on the use of official cars for private use and will take into consideration regulations issued by the Internal Revenue Service which are applicable to the employer.

§ 618.8320 Data regarding borrowers and loan applicants.

* * * * *

(b) * * *

(2) Accredited representatives of the offices named in § 617.7080 may, upon presentation of official identification and a written request identifying the individual case on which information is sought, the particular information desired and a certification that such information is pertinent to the official information of the case and is requested for confidential use of the investigating office, be given access to information pertinent to their official investigations of individual cases.

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§ 618.8370 Records disposal.

Each bank shall maintain an up-to-date records disposal schedule which has the approval of its board. Each association shall maintain an up-to-date records disposal schedule which has the approval of its supervising bank.

(Secs. 5.9, 5.18, 5.26, 85 Stat. 619, 621, 624.)

JEROME P. WEISS,
Acting Governor,
Farm Credit Administration.

[FR Doc.73-21425 Filed 10-5-73;8:45 am]

Proposed Rules

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Bonds and Other Evidences of Indebtedness

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by November 9, 1973. Written comments or suggestions which are not exempt from disclosure by the Internal Revenue Service may be inspected by any person upon compliance with 26 CFR 601.702(d)(9). The provisions of 26 CFR 601.601(b) shall apply with respect to the designation of portions of comments or suggestions as exempt from disclosure. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by November 9, 1973. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the Federal Register, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

The following regulations require that holders of face amount certificates issued after March 31, 1974, include the original issue discount in income over the term of the certificates in accordance with section 1232(a)(3) of the Internal Revenue Code of 1954. The ratable inclusion rules apply to holders of such certificates in a manner similar to which such rules are applicable to depositors in financial institutions.

PROPOSED AMENDMENTS TO THE REGULATIONS

The Income Tax Regulations (26 CFR Part 1) are amended as follows:

PARAGRAPH 1. A new paragraph (c)(4) is added to § 1.72–6 to read as follows:

§ 1.72–6 Investment in the contract.

* * * * *

(c) *Special rules.** * *

(4) In the case of "face-amount certificates" described in section 72(l), the amount of consideration paid for purposes of computing the investment in the contract shall include any amount added to the holder's basis by reason of section 1232(a)(3)(E) (relating to basis adjustment for amount of original issue discount ratably included in gross income as interest under section 1232(a)(3)).

PAR. 2. Paragraph (c) of § 1.1232–1 is amended to read as follows:

§ 1.1232–1 Bonds and other evidences of indebtedness; scope of section.

* * * * *

(c) *Face-amount certificates*—(1) *In general.* For purposes of section 1232, this section and §§ 1.1232–2 through 1.1232–4, the term "other evidence of indebtedness" includes "face amount certificates" as defined in section 2(a)(15) and 4 of the Investment Company Act of 1940 (15 U.S.C. 80a–2 and 80a–4).

(2) *Amounts received in taxable years beginning prior to January 1, 1964.* Amounts received in taxable years beginning prior to January 1, 1964 under face amount certificates which were issued after December 31, 1954, are subject to the limitation on tax under section 72(e)(3). See paragraph (g) of § 1.72–11 (relating to limit on tax attributable to receipt of a lump sum received as an annuity payment). However, section 72(e)(3) does not apply to any such amounts received in taxable years beginning after December 31, 1963.

(3) *Certificates issued after March 31, 1974.* In the case of a face-amount certificate issued after March 31, 1974 (other than such a certificate issued pursuant to a written commitment which was binding on such date the ratable inclusion of original issue discount in gross income) shall apply. See § 1.1232–3A(f). For treatment of any increase in basis under section 1232(a)(3)(E) as consideration paid for purposes of computing the investment in the contract under section 72, see § 1.72–6(c)(4).

* * * * *

PAR. 3. A new paragraph (f) is added to § 1.1232–3A to read as follows:

§ 1.1232–3A Inclusion as interest of original issue discount on certain obligations issued after May 27, 1969.

* * * * *

(f) *Application of section 1232(a)(3) to face-amount certificates*—(1) *In general.* Under paragraph (c)(3) of § 1.1232–1, the provisions of section 1232(a)(3) and this section apply in the case of a face-amount certificate issued after March 31, 1974 (other than such a certificate issued pursuant to a written commitment which was binding on such date and at all times thereafter).

(2) *Relationship with paragraph (e) of this section.* Determinations with regard to the inclusion as interest of original issue discount on, and certain adjustments with respect to, face-amount certificates to which this section applies shall be made in a manner consistent with the rules of paragraph (e) of this section (relating to the application of section 1232 to certain deposits in financial institutions and similar arrangements). Thus, for example, if a face-amount certificate is redeemed before maturity, the holder shall be allowed a deduction in computing adjusted gross income computed in a manner consistent with the rules of paragraph (e)(2) of this section. For a further example, if under the terms of a face-amount certificate, the issuer may grant additional credits to be paid at a fixed maturity date, computations with respect to such additional credits shall be made in a manner consistent with the rules of paragraph (e)(6) and (7) of this section (as applicable) relating to contingent interest arrangements.

PAR. 4. Paragraph (a)(1) of § 1.6049–1 is changed by revising subdivision (ii)(*a*)(*3*), (*4*) and (*5*), so much of subdivision (ii)(*b*) as precedes (*1*) thereof, by redesignating existing subdivision (ii)(*d*) as (ii)(*e*), and adding a new subdivision (ii)(*d*), and by revising subdivision (iv). These revised and redesignated provisions read as follows:

§ 1.6049–1 Returns of information as to interest paid in calendar years after 1962 and original issue discount includible in gross income for calendar years after 1970.

(a) *Requirement of reporting*—(1) *In general.* * * *

(ii) * * *

(*a*) * * *

(*3*) The issue price of the obligation (as defined in paragraph (b)(2) of § 1.1232–3).

(*4*) The stated redemption price of the obligation at maturity (as defined in paragraph (b)(1)(iii) of § 1.1232–3).

(*5*) The ratable monthly portion of original issue discount with respect to the obligation as defined in section 1232(a)(3)(A) (determined without regard to a reduction for a purchase allowance or whether the holder purchased at a premium).

* * * * *

(b) With respect to any obligation (other than an obligation to which paragraph (e) or (f) of § 1.1232–3A applies (relating respectively to deposits in banks and similar financial institutions and to face-amount certificates)), the issuing corporation (or an agent acting on its behalf)—* * *.

* * * * *

(d) The requirements of (a)(3), (a)(4), and (a)(5) of this subdivision shall not apply to a time deposit open account arrangement to which paragraph (e)(5) of § 1.1232–3A applies, or to a face-amount certificate to which paragraph (f) of § 1.1232–3A applies.

(e) * * *

* * * * *

(iv) Except with respect to an obligation to which paragraph (e) or (f) of § 1.1232–3A applies (relating respectively to deposits in banks and similar financial institutions and to face-amount certificates), every person who is a nominee on behalf of the actual owner of an obligation as to which there is original issue discount aggregating $10 or more includible in the gross income of such owner during a calendar year after 1970, regardless of whether he receives a Form 1099–OID with respect to such discount, shall make an information return on Forms 1096 and 1087–OID for such calendar year showing in the manner prescribed on such forms the same information for the actual owner as is required or permitted in subdivision (ii) of this subparagraph for the record holder.

* * * * *

[FR Doc.73–21336 Filed 10–5–73;8:45 am]

Customs Service

[19 CFR Part 10]

FABRICATED COMPONENTS ASSEMBLED ABROAD

Proposed Entry Requirements

Notice is hereby given that under the authority of R.S. 251, as amended, section 624, 46 Stat. 759, 77A Stat. 14; 19 U.S.C. 66, 1202 (General Headnote 11, Tariff Schedules of the United States), and 1624, it is proposed to amend section 10.2 of the Customs Regulations pertaining to the entry requirements of articles assembled abroad in whole or in part of fabricated United States components, under item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202).

A survey of the Customs clearance of merchandise for which allowance under item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202), is claimed has found that certain additional information is needed at time of entry in order to properly determine the basis of the claim. The name and address of the United States manufacturer of the components and the location of his manufacturing plant, which are not presently contained in the foreign assembler's declaration in § 10.2(a) of the Customs Regulations, have been found necessary. The proposed amendment provides for such information to be given by the foreign assembler in his declaration. At present, the foreign assembler's declaration in § 10.2(a) calls for a description of operations performed abroad on the United States components, including assembly and all other operations. In most cases, a general description of the operations has been given. In order to properly evaluate whether the assembly process conforms to the requirements of the statute, a specific description of each operation performed on the United States components is necessary. The proposed amendment requires such a specific description in the foreign assembler's declaration.

Section 10.2(b) presently provides that the owner, importer, consignee, or agent, must file an endorsement as to the correctness of the foreign assembler's declaration (§ 10.2(a)). The proposed amendment makes it clear that an agent must be a duly authorized agent having knowledge of all the facts.

The proposed amendment sets forth that the documents required by § 10.2 must be filed at the time of entry with the entry. As a consequence, § 10.112 which permits the late filing of free entry documents would not be applicable. The proposed amendment deletes the waiver provision presently contained in paragraph (c) of § 10.2, to ensure uniform treatment of merchandise entered under item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202), at all ports of entry, and to adequately protect the revenue. The proposal also provides that unless the documents required are filed at the time of entry with the entry, Customs officers shall not permit entry under item 807.00, of the Tariff Schedules of the United States.

Accordingly, it is proposed to amend § 10.2, Customs Regulations, as set forth below:

§ 10.2 Requirements on entry of fabricated components assembled abroad.

The following documents shall be filed at time of entry with the entry of articles claimed to be partially exempted from duty under item 807.00, Tariff Schedules of the United States (19 U.S.C. 1202):

(a) A declaration by the person who performed the assembly operations abroad, in substantially the following form:

I, ----------, declare that to the best of my knowledge and belief the ---------- were assembled in whole or in part from fabricated components, as listed and described below, which are products of the United States.

Marks of identification, numbers	Description of component	Quantity	Unit value at time and place of export from United States[1]	Port and date of export from United States	Name and address of manufacturer and location of manufacturing plant in the United States where component was made

[1] In accordance with headnote 3, part 1B, schedule 8, Tariff Schedules of the United States.

Specific description of each operation performed abroad on the United States components, including a step-by-step description of the assembly and all other operations:

---------- ----------
(Date) (Signature)

---------- ----------
(Address) (Capacity)

(b) An endorsement of the owner, importer, consignee or duly authorized agent having knowledge of all the facts, in substantially the following form:

I declare that the (above) (attached) declaration of ---------- is correct in every respect and there has been compliance with all pertinent headnotes of the Tariff Schedules of the United States.

---------- ----------
(Date) (Signature)

---------- ----------
(Address) (Capacity)

(c) If the documents prescribed in paragraphs (a), and (b) of this section are not filed at the time of entry with the entry, Customs officers shall not permit entry under Item 807.00 of the Tariff Schedules of the United States, (19 U.S.C. 1202).

Consideration will be given to relevant data, views, or arguments pertaining to the proposed amendment which are submitted to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received on or before November 8, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs Regulations (19 CFR 103.3(b)), at the Regulations Division, Bureau of Customs, Washington, D.C., during regular business hours.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved September 27, 1973.

EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.73–21271 Filed 10–5–73;8:45 am]

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration

[30 CFR Part 77]

ROLLOVER PROTECTIVE STRUCTURES (ROPS) AND FALLING OBJECT PROTECTIVE STRUCTURES (FOPS) FOR MOBILE EQUIPMENT

Notice of Proposed Rulemaking

Since the promulgation of 30 CFR Part 77, Mandatory Safety Standards for Surface Coal Mines and Surface

Work Areas of Underground Coal Mines, on May 22, 1971 (36 FR 9364), the area of rollover protective structures (ROPS) and falling object protective structures (FOPS) for mobile equipment has been given considerable attention, not only by the Mining Enforcement and Safety Administration (MESA), but also by the Department of Labor's Occupational Safety and Health Administration.

The Department of Labor's ROPS regulations were promulgated as Part 1926 of Title 29, Code of Federal Regulations on April 5, 1972 (37 FR 6837), after extensive hearings had been held on the proposed rules. The Department of Labor's ROPS standards include both performance requirements and extensive testing procedures to assure that the performance requirements are met.

MESA has determined that the performance and testing requirements of the Department of Labor's ROPS regulations will afford miners a greater degree of protection than the present requirements of 30 CFR 77.403 dealing with canopies and roll protection for mobile equipment. The ROPS standards proposed below not only adopt Department of Labor requirements but also adopt requirements from the U.S. Army Corps of Engineers, the Bureau of Reclamation, and the State of California.

The standards proposed below provide three different criteria for acceptability of ROPS, depending on whether the mobile equipment on which a ROPS is installed is: (1) Newly manufactured after the effective date of this section; (2) in use before the effective date of this section and not equipped with a ROPS; or (3) in use before the effective date of this section and already equipped with a ROPS.

While not part of this proposal, attention should also be directed to 30 CFR 77.1710(i) which requires the use of seat belts in a vehicle where there is a danger of overturning and where roll protection is provided. The protection provided by a ROPS is only fully utilized when an equipment operator is using a seat belt.

While substantial study has been made in the area of ROPS by both the Department of Labor and MESA, the area of ROPS is still under evaluation, and specific ROPS requirements will not be available until the current work is completed. Therefore, the changes proposed below as they apply to ROPS only clarify the categories of mobile equipment on which ROPS may be required.

Notice is hereby given that for the above stated reasons, and pursuant to the authority vested in the Secretary of the Interior under section 101(a) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 811(a); 83 Stat. 745), it is proposed that § 77.403 be amended as set forth below and a new § 77.403a be added to Part 77 of Subchapter O, Chapter I, Title 30, Code of Federal Regulations. Interested persons may submit written comments, suggestions, or objections to the Administrator, Mining Enforcement and Safety Administration, Department of the Interior, Washington, D.C. 20240 no later than November 15, 1973.

STEPHEN A. WAKEFIELD,
Assistant Secretary of the Interior.

OCTOBER 1, 1973.

Section 77.403 would be amended and a new § 77.403a would be added to Part 77, Subchapter O, Chapter I, Title 30, Code of Federal Regulations as follows:

§ 77.403 Mobile equipment; falling object protective structures (FOPS).

All rubber-tired or crawler-mounted self-propelled scrapers, forklift trucks, front-end loaders, dozers, graders, loaders, and tractors, with or without attachments, and haulage vehicles that are used in surface coal mines or the surface work areas of underground coal mines shall be provided with substantial falling object protective structures (FOPS) when necessary to protect the operator of the equipment.

§ 77.403a Mobile equipment; rollover protective structures (ROPS).

(a) All rubber-tired or crawler-mounted self-propelled scrapers, forklift trucks, front-end loaders, dozers, graders, loaders, and tractors, with or without attachments, and haulage vehicles that are used in surface coal mines or the surface work areas of underground coal mines shall be provided with rollover protective structures (hereinafter referred to as ROPS) in accordance with the requirements of paragraphs (b) through (g) of this section, as applicable.

(b) *Mobile equipment manufactured after the effective date of this section.* All mobile equipment described in paragraph (a) of this section manufactured after the effective date of this section shall be equipped with ROPS meeting the requirements of the Department of Labor specified in §§ 1926.1001 and 1926.1002 of Part 1926, Title 29, Code of Federal Regulations—Safety and Health Regulations for Construction.

(c) *Mobile equipment manufactured prior to the effective date of this section.* All mobile equipment described in paragraph (a) of this section manufactured prior to the effective date of this section shall be equipped with ROPS meeting the requirements of paragraphs (d) through (g) of this section, as appropriate, no later than the dates specified below, unless an earlier date is required by an authorized representative of the Secretary under paragraph (c)(5) of this section.

(1) Mobile equipment manufactured between July 1, 1971, and the effective date of this section shall be equipped with ROPS no later than six months after the effective date of this section.

(2) Mobile equipment manufactured between July 1, 1970, and June 30, 1971, shall be equipped with ROPS no later than 10 months after the effective date of this section.

(3) Mobile equipment manufactured between July 1, 1969, and June 30, 1970, shall be equipped with ROPS no later than 16 months after the effective date of this section.

(4) Mobile equipment manufactured before July 1, 1969, shall be equipped with ROPS no later than 28 months after the effective date of this section.

(5) Irrespective of the time periods specified in paragraphs (c)(1) through (4) of this section an authorized representative of the Secretary may require any mobile equipment described in paragraph (a) of this section, to be equipped with ROPS at an earlier date when necessary to protect the operator of the equipment under the conditions in which the mobile equipment is, or will be, operated.

(d) Except as provided in paragraph (e) of this section, mobile equipment described in paragraph (a) of this section, manufactured prior to the effective date of this section shall be deemed in compliance with this section if the ROPS is installed in accordance with the recommendations of the ROPS manufacturer or designer. The coal mine operator shall furnish, upon request of an authorized representative of the Secretary, certification from the ROPS manufacturer, designer, or a Registered Professional Engineer that:

(1) The ROPS complies with the Society of Automotive Engineers (SAE) Standard J 397, Critical Zone-Characteristics and Dimensions for Operators of Construction and Industrial Machinery, and the following applicable SAE Standard:

(i) J 320a, Minimum Performance Criteria for Rollover Protective Structure for Rubber-Tired, Self-Propelled Scrapers;

(ii) J 394, Minimum Performance Criteria for Rollover Protective Structure for Rubber-Tired Front-End Loaders and Rubber-Tired Dozers;

(iii) J 395, Minimum Performance Criteria for Rollover Protective Structure for Crawler Tractors and Crawler-Type Loaders;

(iv) J 396, Minimum Performance Criteria for Rollover Protective Structure for Motor Graders;

(v) J 167, Protective Frame with Overhead Protection—Test Procedures and Performance Requirements.

(vi) J 334a, Protective Frame Test Procedures and Performance Requirements; or

(2) The ROPS and supporting attachments will:

(i) Show satisfactory performance by actual test of a prototype involving a roll of 720° or more; or

(ii) Support not less than the weight of the vehicle applied as a uniformly distributed horizontal load at the top of the structure and perpendicular to a vertical plane through the longitudinal axis of the prime mover, and support two times the weight of the vehicle applied as a uniformly distributed vertical load to the top of the structure; or

(iii) Support the following separately applied minimum loads:

(A) 125 percent of the weight of the vehicle applied as a uniformly distributed horizontal load at the top of the ROPS and perpendicular to a vertical plane through the longitudinal axis of the prime mover; and

(B) A load of twice the weight of the vehicle applied as a uniformly distributed vertical load to the top of the ROPS after complying with paragraph (d) (2) (iii) (A) of this section. Stresses shall not exceed the ultimate strength. Steel used in the ROPS must have capability to perform at 0° F., or exhibit Charpy V-notch impact strength at 8 ft. —lb. at −20° F. with a standard Charpy V-notch Type A specimen and provide 20 percent elongation over two inches in a standard two inch gauge length on a 0.505 inch diameter tensile specimen. Bolts and nuts shall be SAE grade 8 (reference SAE J 429d and J 995).[1]

(e) *Mobile equipment manufactured prior to the effective date of this section meeting certain existing governmental requirements for ROPS.* Mobile equipment described in paragraph (a) of this section, manufactured prior to the effective date of this section and already equipped with ROPS, shall be deemed in compliance with this section if it meets the ROPS requirements of the State of California, the U.S. Army Corps of Engineers, or the Bureau of Reclamation of the U.S. Department of the Interior in effect on April 5, 1972. The requirements in effect are:

(1) State of California: Construction Safety Orders 1591(i), 1596, and 5243, issued by the Department of Industrial Relations pursuant to Division 5, Labor Code, section 6312, State of California;

(2) U.S. Army Corps of Engineers: Safety-General Safety Requirements, EM-385-1-1 (March 1967); and

(3) Bureau of Reclamation, U.S. Department of the Interior: Safety and Health Regulations for Construction, Part II (September 1971).

(f) Field welding on ROPS shall be performed by welders who are certified by the coal mine operator as being qualified in accordance with the American Welding Society Structural Welding Code AWS D1.1–72, or Military Standard MIL–STD 248, or the equivalent thereof.

(g) *Labeling.* Each ROPS shall have the following information permanently affixed to the structure:

(1) Manufacturer or fabricator's name and address;

(2) ROPS model number, if any; and

(3) Machine make, model, or series number that the structure is designed to fit.

(h) *Incorporation by reference.* In accordance with 5 U.S.C. 552(a), the publications to which reference are made in this section, and which have been prepared by organizations other than the Mining Enforcement and Safety Administration (MESA), are hereby incorporated by reference and made a part hereof. The incorporated publications are available at each Coal Mine Health and Safety District and Subdistrict Office of MESA. The U.S. Army Corps of Engineers, Safety—General Safety Requirements are also available from the U.S. Government Printing Office, Washington, D.C. 20402. Bureau of Reclamation Safety and Health Regulations for Construction are available from the Bureau of Reclamation, Division of Safety, Engineering and Research Center, Denver, Colorado. SAE documents are available from the Society of Automotive Engineers, Inc., 2 Pennsylvania Plaza, New York, N.Y. 10001. American Welding Society Structural Welding Code D1.1–72 is available from the American Welding Society, Inc., 2501 NW. 7th Street, Miami, Florida 33125. Military Standard MIL–STD 248 is available from the U.S. Government Printing Office, Washington, D.C. 20402.

[FR Doc.73-21212 Filed 10-5-73;8:45 am]

[1] Paragraph (d) of § 77.403(a) adopts the ROPS criteria of the U.S. Army Corps of Engineers, Safety—General Safety Requirements, EM 385-1-1, Change 1, No. 21, Para. 18.A.20 (March 27, 1972), except that paragraph (d) (2) (ii) of this section is substituted for Para. 18.A.20e(2) of the Corps requirements.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1700]

RURAL ELECTRIFICATION ACT

Proposed Loan Procedures

Notice is hereby given that, pursuant to the Rural Electrification Act (7 U.S.C. 901–950(b)), REA proposes to amend Chapter XVII, Part 1700 of the Code of Federal Regulations.

The Rural Electrification Act as amended May 11, 1973, by Public Law 93–32 provides authority for the Administrator of REA to make insured and guaranteed loans to finance rural electric and telephone facilities. The purpose of this proposed amendment to Part 1700 is to set forth the basis for implementation of insured and guaranteed loan programs under the Rural Electrification Act as amended by Public Law 93–32.

Persons interested in the proposed amendment may submit written data, views or comments to Administrator, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, not later than November 8, 1973. It is proposed to amend Part 1700 as follows:

1. Amend "Authority" to read as follows:

AUTHORITY.—7 U.S.C. 901–915, 921–924, 931–940; 87 Stat. 65.

2. Add the following sections:

§ 1700.3b Insured loans pursuant to section 305 of the Rural Electrification Act, as amended May 11, 1973.

(a) *General.* These loans are made by the Administrator for the purposes authorized by sections 4 and 201 of the Rural Electrification Act (see §§ 1700.1 and 1700.3) and though serviced by the Administrator, are sold with a contract of insurance by the Administrator. The standard interest rate on the loans made by the Administrator under this section is 5 percent but a special 2 percent rate is applicable on the basis of certain consumer or subscriber density, average earnings per mile, extenuating circumstances or extreme hardship.

(b) *Loan applications, construction and advance of loan funds.* Sections 1700.1(b) and 1700.3(b) will be applied with respect to applications for insured loans under section 305 of the Rural Electrification Act. Sections 1700.1(c) and 1700.3(c) will be applied with respect to the construction of rural electrification and telephone facilities respectively, and §§ 1700.1(d) and 1700.3 (d) will be applied to the advance of funds on account of such insured electrification and telephone loans, respectively.

(c) *REA Bulletins.* REA Bulletins (see §§ 1700.6 and 1701.1) in effect on May 11, 1973, as from time to time amended or supplemented, will be utilized in carrying out REA's loan programs pursuant to the May 11, 1973, Amendments of the Rural Electrification Act (P.L. 93–32, 87 Stat. 65) to the extent not inconsistent therewith.

§ 1700.3c Guaranteed Loans Pursuant to Section 306 of the Rural Electrification Act, As Amended May 11, 1973.

(a) *General.* These loans are made by any legally organized lending agency and guaranteed in the full amount thereof by the Administrator for purposes provided in the Rural Electrification Act. The loans guaranteed under this section are serviced by the lender. The interest rate on these loans is as agreed upon by the borrower and the lender.

Dated October 2, 1973.

DAVID A. HAMIL,
Administrator.

[FR Doc.73-21412 Filed 10-5-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Part 249]

SERVICES AND PAYMENTS IN MEDICAL ASSISTANCE PROGRAMS

Chiropractors' Services

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The regulations, which implement section 275 of Pub. L. 92–603, relate to the limitation of chiropractors' services under Medicaid to the treatments and conditions listed under that section.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, on or before November 8, 1973. Comments received will be available for public inspection in Room 5224 of the Department's offices at 301 C

Street SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5 p.m., area code 202–963–7361.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302.))

Dated August 27, 1973.

JAMES S. DWIGHT, Jr.,
Administrator, Social and Rehabilitation Service.

Approved September 28, 1973.

CASPAR W. WEINBERGER,
Secretary.

Section 249.10(b)(6) of Part 249 is revised to read as follows:

§ 249.10 Amount, duration, and scope of medical assistance.

* * * * * *

(b) *Federal financial participation.* * * *

(6) *Medical care and any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law.* This term means any medical or remedial care or services other than physicians' services, provided within the scope of practice as defined by State law, by an individual licensed as a practitioner under State law, except that chiropractors' services shall include only services which (i) are provided by a chiropractor (A) who is licensed as such by the State and (B) who meets uniform minimum standards promulgated by the Secretary under section 1861(r)(5) of the Act; and (ii) consist of treatment by means of manual manipulation of the spine which the chiropractor is legally authorized to perform by the State.

[FR Doc.73-21246 Filed 10-5-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 73-EA-80]

CONTROL ZONE

Proposed Alteration

Correction

In FR Doc. 73-20363 appearing at page 26731 in the issue of Tuesday, September 25, 1973, the second line of the description of the Morristown, N.J. control zone should read as follows: "40°47'58" N., 74°24'56" W., of Morristown".

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

DIMETHYL TETRACHLOROTEREPHTHALATE

Tolerances and Exemptions for Pesticide Chemicals in or on Raw Agricultural Commodities

Correction

In FR Doc. 73-19458, appearing on page 25455 in the issue of Thursday, September 13, 1973, make the following changes:

1. In the paragraph preceding the section heading numbered § 180.185, the following should be added to the beginning of the first sentence: "Therefore pursuant to the provisions of the Federal Food, Drug, and".

2. In the section numbered § 180.185, the last word in the second line of the first paragraph should read "tetrachlorotere-".

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19833; FCC 73-1011]

FM BROADCAST STATIONS

Proposed Table of Assignments, Beaufort, S.C.

1. Notice is hereby given of the institution of this proceeding to consider a proposal to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, by adding Channel 285A to Beaufort, South Carolina, as a second FM assignment to that community. The proposed assignment is requested by Sea Island Broadcasting Corporation (Sea Island), licensee of Station WSIB, a Class IV AM station at Beaufort, in a petition for rule making filed on October 16, 1972, public notice of which was given on November 27, 1972. No opposing or other comments on the proposal were received.

2. Beaufort (1970 population, 9,435) is located on the southeastern coast of South Carolina in Beaufort County (1970 population, 51,135), of which it is the seat and largest city, approximately 15 miles from the Atlantic Ocean, 75 miles south of Charleston, South Carolina, and 45 miles north of Savannah, Georgia. At present, there are three aural broadcast stations in Beaufort: two AM stations (Station WSIB, the petitioner's Class IV facility, and Station WBEU, a daytime-only facility) and a Class C FM station (WBEU-FM) which operates on Channel 254, the only Beaufort FM assignment. The only other aural broadcast station in operation in Beaufort County is the Channel 292A station (WHHR) on Hilton Head Island which began operation on July 13, 1973. Hilton Head Island, approximately 32 miles from Beaufort by road, is one of a number of islands lying in the Atlantic off the coast of South Carolina composing part of Beaufort County.

3. Channel 285A could be assigned to Beaufort in conformance with all mileage separation requirements without affecting existing assignments or stations. It appears from the petitioner's preclusion study that a Beaufort Channel 285A assignment would not be likely to deprive any other area of a needed FM assignment. The proposed Beaufort assignment would foreclose future assignments only on Channels 285A and 288A in areas along the narrow Atlantic coastline in and near Beaufort and extending north to the Charleston area which presently has six AM and four commercial Class C FM stations in operation. There are also other FM channels which could be assigned to meet additional developing needs for aural broadcast services in that area. Communities of over 2,500 population without FM assignments in the Channel 285A "precluded" area include Capehart (1970 population, 4,490), Parris Island (1970 population, 8,868) and Port Royal (1970 population 2,865), in Beaufort County. However, since they are all within ten miles of Beaufort, under Section 73.203(b) of our rules a Beaufort Channel 285A assignment would also be available to them for application and use. While Hilton Head Island is within the small precluded area for Channel 288A, Channel 292A (Station WHHR) is assigned to that community, and it does not appear to warrant another FM channel assignment.

4. Petitioner urges that Beaufort warrants a second FM assignment to serve increased needs for aural broadcast service in view of the fact that it is the center of a fast growing recreational area. This is reflected, it states, by almost a 50 percent increase in permanent residents in the past decade (from 6,298 residents in 1960 to 9,434 residents in 1970), aside from the large number of vacationing visitors to the area; the growth pattern of retail sales in the city (29 percent increase from 1963–1967) which is expected to continue when retail sales are again measured; and the residential lot sales and residential and commercial building which has taken place and is under construction in the city. Additional reasons urged are that Beaufort is not only the largest city in Beaufort County but the educational and civic center of the county as well, the location of both the Beaufort Regional Technical Center and the regional branch of the University of South Carolina; and that there are three nearby military installations (the Marine Corps Air Station, the Parris Island Marine Corps Recruit Depot, and the U.S. Naval Hospital), with an estimated 12,122 military personnel on board, according to data furnished by the Beaufort County Chamber of Commerce.

5. Sea Island also submits that Beaufort is, in many respects, similar to Myrtle Beach, South Carolina (1970 population, 8,536), which was assigned a second Class A FM channel in 1963 [1] since both cities have a population of under 10,000, both are important new recreational centers on the southeastern coast, both have large military installations nearby, and both had the same number of existing local aural broadcast stations when a second FM assignment was proposed (two AM and one FM). Sea Island considers the Myrtle Beach case as precedent for providing Beaufort with a second FM assignment also since the second Myrtle Beach FM assignment was found to be warranted, despite its small size, upon a convincing showing as to the small adverse impact of the assignment on possible future needed assignments in

[1] 12 F.C.C. 2d 664.

other communities and a substantial showing of need due to population growth, seasonal increase due to its central location in a large recreational area, and nearness to a large military installation. If the requested assignment is made, Sea Island states that it will expeditiously apply for its use and, if authorized will promptly construct a new FM facility to serve Beaufort.

6. We believe that the petitioner's showing as to the technical feasibility and preclusionary impact of its proposal and as to the need and demand for a second FM assignment in the growing Beaufort area is sufficient to merit further consideration of its proposal in rule making. While the requested assignment would intermix a Class A with a Class C FM assignment at Beaufort, it would appear that the petitioner was unable to find an available Class C channel not requiring changes in other assignments for the community and has reached the judgment that a Class A channel would be viable for competition and service in Beaufort. Although it is generally our policy to avoid the intermixture of classes of FM channel assignments in the same community in order to provide opportunity for technically comparable facilities for competition and service, in a number of cases we have done so when it appeared that the overall public interest, convenience and necessity would be served.

7. In view of the foregoing and pursuant to authority found in Sections 4(i), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend § 73.202(b) of the Commission's Rules and Regulations, the FM Table of Assignments, as concerns Beaufort, South Carolina, as follows:

City	Channel No.	
	Present	Proposed
Beaufort, S.C.	254	254, 285A

8. *Showings required.* Comments are invited upon the proposal referred to above, as well as the intermixture question raised. It would also be helpful in reaching a decision on the proposal if Sea Island would submit information updating that relied upon concerning the potential of Beaufort for growth and its need for an additional FM service. Sea Island should further affirm its intention both to promptly apply for the channel if assigned and to construct if its application is granted. Failure to file comments or address the issues raised may result in dismissal.

9. *Cut-off procedure.* The following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposal in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

10. Pursuant to applicable procedures set out in § 1.415 of the Commission's Rules and Regulations, interested parties may file comments on or before November 9, 1973, and reply comments on or before November 19, 1973. All submissions by parties to this proceeding, or persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

11. In accordance with the provisions of § 1.419 of the Rules and Regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, and other documents shall be furnished the Commission. These will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street NW., Washington, D.C.

Adopted September 26, 1973.

Released October 2, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
Acting Secretary.

[FR Doc.73-21348 Filed 10-5-73;8:45 am]

[47 CFR Part 73]

[Docket No. 19831; FCC 73-1009]

FM BROADCAST STATIONS

Proposed Table of Assignments, Cities in Indiana, Michigan, and Orders to Show Cause

1. Notice of proposed rulemaking is hereby given concerning amendment of the FM Table of Assignments (§ 73-202 (b) of the Commission's Rules and Regulations) with respect to the petition of Kosciusko Broadcasting Corporation (Kosciusko), licensee of AM Station WKAM, Goshen, Indiana, proposing the assignment of Channel 249A as a first FM assignment to that community and making necessary concomitant changes elsewhere.

2. Goshen, population 17,171, is the seat of Elkhart County, population 176,529.[2] The aural broadcast service at Goshen consists of AM Station WKAM and noncommercial educational FM Station WGCS. Kosciusko states its purpose is to provide better nighttime service, inasmuch as Station WKAM is severely restricted because of its directional antenna pattern and high interference. In order to assign Channel 249A to Goshen, it is necessary to change the channels used by Station WDOW(FM) (Channel 249A) at Dowagiac, Michigan, and noncommercial educational Station WETL (Channel 220) at South Bend, Indiana. Kosciusko proposes to substitute Channel 221A for Station WDOW-FM's Channel 249A at Dowagiac, and change the FM Table of Assignments accordingly; and for Station WETL, South Bend, to change its operating channel from Channel 220 to 219.[3] Kosciusko also proposes to reimburse Station WETL for costs of the change and to reimburse Station WDOW-FM for the costs of a new transmitter, new antenna, and a new frequency monitor and pay all reasonably related expenses in exchange for its present equipment.

3. Kosciusko, in support of its petition, sets forth information and data as to the background about Goshen including the fact that the new FM Table of Assignments assigned Channel 232A to that community but it was deleted in 1965 and reassigned to Plymouth, Indiana (40 F.C.C. 957 (1965)), and it is presently occupied by Station WTCA-FM. It is urged that the continued and future growth of Goshen and its environs makes it desirable to have a nighttime aural broadcast service to serve the entire area. As already noted, the petitioner asserts that AM Station WKAM is severely restricted in some areas because of its directional antenna pattern and high interference level from co-channel stations at night. Kosciusko also notes that noncommercial educational FM Station WGCS, licensed to Goshen College, is limited and restricted because of its low power and antenna height. As to Goshen itself, we are advised that the city lies 10 miles south of Elkhart, the population increase since the 1960 Census was 25.2%, and the form of city government is a mayor and city council. Further information is given as to the educational system, the existence of Goshen College with an enrollment of 1,200, medical facilities, religious organizations, and general information as to industry and the availability of various recreational activities on nearby lakes. It is claimed that no channel may be assigned to Goshen without a change elsewhere and that Channel 249A may be assigned if the channels for Stations WDOW-FM and WTEL are changed.

4. It is settled Commission policy that where changes in the FM Table of Assignments are made which require changes of the channel of operating stations, these stations are to be reimbursed for the actual cost of the change.[4] Kosciusko proposes to exchange broadcast facilities with Dowagiac Broadcasting Co., Inc., licensee of Station WDOW-

[1] Commissioner Robert E. Lee absent.

[2] All population information is from the 1970 Census.

[3] There is no table of assignments for noncommercial educational Channels 201-220 (see Subpart C of Part 73).

[4] See, e.g., *Cocoa Beach*, 1 F.C.C. 2d 643, 646 (1965); *Wenatchee*, 2 F.C.C. 2d 828, 830 (1966); *Kenton and Bellefontaine*, 3 F.C.C. 2d 598 603-605 (1966); *Gretna and Danville*, 5 F.C.C. 2d 333, 341 (1966); and *Circleville*, 8 F.C.C. 2d 159 (1967).

FM, with Kosciusko purchasing a new transmitter, antenna, and a frequency monitor for Station WDOW–FM and paying related expenses for the changeover. Kosciusko also proposes to reimburse Station WETL for change of crystals in the transmitter and monitor and a retuning of the transmitter for Station WETL, and it estimates the cost as between $200 and $700; a letter from the manager of Station WETL filed with the Commission September 7, 1972, indicates that the South Bend Community School Corporation, the station licensee, feels that the proposed reimbursement for it is inadequate, Kosciusko overlooked payment for a new exciter and monitor, modification of subsidiary communications authorization (SCA) receiver, and replacement of single channel receivers. It is important to note that reimbursement is made by the successful applicant for a channel rather than petitioner.

5. In connection with the proposed substitution of Channel 221A for 249A at Dowagiac, we have examined the impact on the operation of television Station WJIM–TV, Channel 6, Lansing, Michigan. A Channel 221A assignment to a community precludes the use of noncommercial educational FM channels 218, 219, and 220 in that community and its vicinity because of adjacent channel mileage separation requirements. This compels anyone interested in a noncommerical educational FM station there to use lower numbered educational FM channels where generally the interference problem vis-a-vis TV Channel 6 is a matter of greater concern (see Docket No. 19183). Since the predicted Grade B contour of Station WJIM–TV, the Channel 6 station nearest to Dowagiac, does not include Dowagiac's home county—Cass County—and all but a tiny segment of Van Buren County to the north, the assignment of Channel 221A to Dowagiac is not objectionable.

6. It would appear that a sufficient showing has been made that the Commission should adopt a Notice of Proposed Rule Making requesting comments as to the proposal. We are satisfied that the proposed assignment may be made and it could serve the public interest, convenience, and necessity. Further comment as to reimbursement of Stations WDOW–FM and WETL is in order.

7. In view of the foregoing and pursuant to authority found in sections 4(i), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend § 73.202(b) of the Commission's rules and regulations, the FM Table of Assignments, as concerns Goshen, Indiana and Dowagiac, Michigan, as follows:

	Channel No.	
	Present	Proposed
Goshen, Ind		249A
Dowagiac, Mich	249A	221A

It is further proposed to change the channel on which noncommercial educational FM Station WETL, South Bend, Indiana, operates from Channel 220 to Channel 219.

8. *It is ordered,* That, pursuant to section 316 of the Communications Act of 1934, as amended, and with the understanding that they will receive reasonable reimbursement of expenses incurred in changing the channels on which they operate, the following licensees shall show cause why the licenses of their respective stations should not be modified to specify operation on new channels as proposed herein instead of the present channels:

Station	Location	Licensee
WDOW–FM	Dowagiac, Mich.	Dowagiac Broadcasting Co., Inc.
WETL	South Bend, Ind.	South Bend Community School Corp.

Pursuant to § 1.87(b) of the Commission's rules, the licensees of Stations WDOW–FM and WETL may, not later than November 9, 1973, request that a hearing be held on the proposed modifications. Pursuant to § 1.87(f), if the right to request a hearing is waived, the aforementioned parties may, not later than [same date as above], 1973, file written statements showing with particularity why their licenses should not be modified or not so modified as proposed in the Order to Show Cause. In this case, the Commission may call on the parties to furnish additional information, designate the matter for hearing, or issue without further proceedings orders modifying the licenses as proposed in the order to show cause. If the right to request a hearing is waived and no written statement is filed by the above-mentioned date, the parties will be deemed to consent to the modification as proposed in the Order to Show Cause and a final order will be issued by the Commission.

9. *Showings required.* Comments are invited upon the proposal referred to above. As indicated, there are questions about reimbursement. Copies of this Notice will be sent to Dowagiac Broadcasting Co., Inc., the licensee of Station WDOW–FM, and South Bend Community School Corporation, licensee of Station WETL, who may wish to comment on reimbursement, and who are free to follow the procedure they desire as set forth in paragraph 7 above. Kosciusko should also affirm its intention both to promptly apply for the channel if assigned and to construct if its application is granted. Failure to file comments or address the issues raised may result in dismissal.

10. *Cut-off procedure.* The following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposal in this Notice, they will be considered as comments in this proceeding, and Public Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

11. Pursuant to applicable procedures set out in § 1.415 of the Commission's Rules and Regulations, interested parties may file comments on or before November 9, 1973, and reply comments on or before November 19, 1973. All submissions by parties to this proceeding or persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

12. In accordance with the provisions of § 1.419 of the Rules and Regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, and other documents shall be furnished the Commission. These will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street, NW., Washington, D.C.

Adopted September 26, 1973.

Released October 2, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] VINCENT J. MULLINS,
Acting Secretary.

[FR Doc.73-21349 Filed 10-5-73;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

PARTICIPATION IN ACCOUNTING SERVICE CENTER

Notice of Proposed Rulemaking

Notice is hereby given that the Administrator of the National Credit Union Administration, pursuant to the authority conferred by section 120, 73 Stat. 635, 12 U.S.C. 1766, proposes to amend Part 701.27 (12 CFR Part 701.27) as set forth below.

The purpose of the proposed amendments is to require Federal credit unions participating in the maintenance or establishment of an accounting service center to make arrangements to receive from that service center financial statements at least once a year.

The proposed amendment would enable Federal credit unions participating in such an arrangement to better direct and control the affairs of the accounting service center.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed revision to the Administrator, National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456, to be received not later than December 10, 1973.

HERMAN NICKERSON, JR.,
Administrator.

[4] Commissioner Robert E. Lee absent; Commissioner Reid concurring in the result.

1. Paragraph (b) (3) is redesignating as paragraph (b) (4) and paragraph (b) (4) is redesignated as (b) (5) and a new paragraph (b) (3) is added to read as follows:

§ 701.27 Participation in accounting service center.

* * * * *

(b) (3) That each participating credit union shall, at least annually, be provided reports disclosing the financial affairs of the service center, including financial position and results of operations. Each such financial statement shall include an attached statement certifying to the participating credit union that the scope of the activities of the service center was confined to (a) of this Part;

* * * * *

[FR Doc.73-21320 Filed 10-5-73;8:45 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Agency for International Development

ADVISORY COMMITTEE ON VOLUNTARY FOREIGN AID

Notice of Meetings

Pursuant to Executive Order 11686 and the provisions of section 10(a) Public Law 92-463, Federal Advisory Committee Act, notice is hereby given of the meetings of the Advisory Committee on Voluntary Foreign Aid which will be held on October 15, from 2 p.m. to 4:30 p.m., in Room 5951, and on October 16, from 9:30 a.m. to 4:30 p.m., in Room 5951, New State Building, 21st and Virginia Avenue NW.

The purpose of the meeting on the 15th will be to discuss the status of the proposed amendment to the FAA, the Tax Reform Legislation, PL 480 and other matters related to the foreign assistance activities of voluntary agencies.

The meeting on the 16th will be the first panel discussion meeting for the purpose of obtaining responses to the Draft Report of the Advisory Committee on "The Role of Voluntary Agencies in International Assistance—A Look to the Future." The first session will be from 9:30 a.m. to 12:30 p.m.; the second session from 2 p.m. to 4:30 p.m.

These meetings will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee, and to the extent time available for the meeting permits. Written statements may be filed before or after the meetings.

Dr. Jarold A. Kieffer will be the A.I.D. representative at the meetings. Information concerning the meetings may be obtained from Mr. Robert S. McClusky, telephone 632-0802. Persons desiring to attend the meetings should enter the New State Building through the 21st Street entrance.

Dated October 1, 1973.

JAROLD A. KIEFFER,
Assistant Administrator for Population and Humanitarian Assistance.

[FR Doc.73-21344 Filed 10-5-73;8:45 am]

Agency for International Development

COORDINATOR, USAID RELIEF AND REHABILITATION OFFICE, BANGLADESH

Redelegation of Authority Regarding Contracting Functions No. 99.1.19

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Coordinator, USAID Relief and Rehabilitation Office, Bangladesh, the authority to sign and approve:

1. U.S. Government contracts and amendments thereto, and AID grant-financed host country contracts for technical assistance, provided that the aggregate amount of each individual contract does not exceed $25,000 or local currency equivalent.

2. Contracts with individuals for the services of the individual alone without monetary limitation.

The authority herein delegated may be redelegated in writing, in whole or in part, by the Coordinator only to the person or persons designated by the Coordinator as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer for the Relief and Rehabilitation Office, or until the redelegation is revoked by the Coordinator, whichever shall first occur. The authority so redelegated by the Coordinator may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures and policies now or hereafter established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein delegated to the Coordinator may be exercised by duly authorized persons who are performing the functions of the Coordinator in an acting capacity.

This redelegation of authority shall be effective October 1, 1973.

Date September 21, 1973.

JOHN F. OWENS,
Director,
Office of Contract Management.

[FR Doc.73-21315 Filed 10-5-73;8:45 am]

DIRECTOR, REGIONAL ECONOMIC DEVELOPMENT, BANGKOK, THAILAND

Redelegation of Authority Regarding Contracting Functions No. 99.1.17

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Director, Regional Economic Development (RED), Bangkok, Thailand, the authority to:

1. Sign and approve U.S. Government Contracts and grants (other than grants to foreign governments or agencies thereof) and amendments thereto, and AID grant-financed host country contracts for technical assistance, provided that the aggregate amount of each individual contract does not exceed $25,000 or local currency equivalent.

2. Sign contracts with individuals for the services of the individual alone without monetary limitation.

The authority herein delegated may be redelegated in writing, in whole or in part, by said Director, RED, only to the person or persons designated by the Director, RED, as Contracting Officer for RED. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer for the RED, Bangkok, Thailand, or until the redelegation is revoked by the Director, RED, whichever shall first occur. The authority so redelegated by the Director, RED, may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures and policies now or hereafter established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the function herein redelegated.

The authority herein delegated to the Director, RED, may be exercised by duly authorized persons who are performing the functions of the Director, RED, in an acting capacity.

This redelegation of authority shall be effective October 1, 1973.

Dated September 21, 1973.

JOHN F. OWENS,
Director,
Office of Contract Management.

[FR Doc.73-21314 Filed 10-5-73;8:45 am]

MISSION DIRECTOR, USAID, GUYANA

Redelegation of Authority Regarding Contracting Functions No. 99.1.20

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Mission Director,

USAID, Guyana, the authority to sign and approve:

1. U.S. Government contracts and amendments thereto, and AID grant-financed host country contracts for technical assistance, provided that the aggregate amount of each individual contract does not exceed $25,000 or local currency equivalent.

2. Contracts with individuals for the services of the individual alone without monetary limitation.

The authority herein delegated may be redelegated in writing, in whole or in part, by said Mission Director only to the person or persons designated by the Mission Director as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer for the Mission, or until the redelegation is revoked by the Mission Director, whichever shall first occur. The authority so redelegated by the Mission Director may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures and policies now or hereafter established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein delegated to the Mission Director may be exercised by duly authorized persons who are performing the functions of the Mission Director in an acting capacity.

This redelegation of authority shall be effective October 1, 1973.

Dated September 21, 1973.

JOHN F. OWENS,
Director,
Office of Contract Management.

[FR Doc.73-21316 Filed 10-5-73;8:45 am]

MISSION DIRECTOR, USAID, INDONESIA

Redelegation of Authority Regarding Contracting Functions No. 99.1.21

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Mission Director, USAID, Indonesia, the authority to sign and approve:

1. U.S. Government contracts and amendments thereto, and AID grant-financed host country contracts for technical assistance, provided that the aggregate amount of each individual contract does not exceed $25,000 or local currency equivalent.

2. Contracts with individuals for the services of the individual alone without monetary limitation.

The authority herein delegated may be redelegated in writing, in whole or in part, by said Mission Director only to the person or persons designated by the Mission Director as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the Office of Contracting Officer for the Mission, or until the redelegation is revoked by the Mission Director, whichever shall first occur. The authority so redelegated by the Mission Director may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures and policies now or hereafter established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein delegated to the Mission Director may be exercised by duly authorized persons who are performing the functions of the Mission Director in an acting capacity.

This redelegation of authority shall be effective October 1, 1973.

Date: September 21, 1973.

JOHN F. OWENS,
Director,
Office of Contract Management.

[FR Doc.73-21317 Filed 10-5-73;8:45 am]

MISSION DIRECTOR, USAID, KOREA

Redelegation of Authority Regarding Contracting Functions No. 99.1.22

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Mission Director, USAID, Korea, the authority to sign and approve:

1. U.S. Government contracts and amendments thereto, and AID grant-financed host country contracts for technical assistance, provided that the aggregate amount of each individual contract does not exceed $25,000 or local currency equivalent.

2. Contracts with individuals for the services of the individual alone without monetary limitation.

The authority herein delegated may be redelegated in writing, in whole or in part, by said Mission Director only to the person or persons designated by the Mission Director as Contracting Officer. Such redelegation shall remain in effect until such designated person ceases to hold the office of Contracting Officer for the Mission, or until the redelegation is revoked by the Mission Director, whichever shall first occur. The authority so redelegated by the Mission Director may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures and policies now or hereafter established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein delegated to the Mission Director may be exercised by duly authorized persons who are performing the functions of the Mission Director in an acting capacity.

This redelegation of authority shall be effective October 1, 1973.

Dated September 21, 1973.

JOHN F. OWENS,
Director,
Office of Contract Management.

[FR Doc.73-21318 Filed 10-5-73;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 73-278]

FOREIGN CURRENCIES

Certification of Rates

The Federal Reserve Bank of New York, pursuant to sec. 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 73-190 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Ceylon rupee:	
September 25, 1973	$0.1545
September 26, 1973	.1545
September 27, 1973	.1545
September 28, 1973	.1545
India rupee:	
September 24, 1973	.1295
September 25, 1973	.1290
September 26, 1973	.1290
September 27, 1973	.1290
September 28, 1973	.1290
Ireland pound:	
September 24, 1973	2.4225
September 25, 1973	2.4225
September 26, 1973	2.4230
September 27, 1973	2.4193
September 28, 1973	2.4135
New Zealand dollar:	
September 24, 1973	1.4750
September 25, 1973	1.4800
September 26, 1973	1.4800
September 27, 1973	1.4800
September 28, 1973	1.4800
United Kingdom pound:	
September 24, 1973	2.4225
September 25, 1973	2.4225
September 26, 1973	2.4230
September 27, 1973	2.4193
September 28, 1973	2.4135

LIQ-3-O:A:E

[SEAL] JAMES D. COLEMAN,
Acting Director, Appraisement and Collections Division.

[FR Doc.73-21327 Filed 10-5-73;8:45 am]

Office of the Secretary

ACRYLONITRILE - BUTADIENE - STYRENE TYPE OF PLASTIC RESIN (IN PELLET AND POWDER FORMS) FROM JAPAN

Antidumping; Determination of Sales at Less Than Fair Value

OCTOBER 4, 1973.

Information was received on January 2, 1973, that acrylonitrile-butadiene-styrene type of plastic resin in pellet form from Japan was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of February 7, 1973, on page 3529.

An amendment to this notice was published in the FEDERAL REGISTER of May 2, 1973, on page 10824, for the purpose of expanding the scope of the investigation to include acrylonitrile-butadiene-styrene type of plastic resin in powder form from Japan.

A "Withholding of Appraisement Notice" was published in the FEDERAL REGISTER of July 6, 1973, on page 18046.

I hereby determine that for the reasons stated below, acrylonitrile-butadiene-styrene type of plastic resin (in pellet and powder forms) from Japan is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement Of Reasons. The information before the U.S. Customs Service indicates that the proper basis of comparison for fair value purposes is between purchase price and the adjusted home market price, or between exporter's sales price and third country price, as appropriate, of such or similar merchandise.

Purchase price was calculated on the basis of the f.o.b. Japan price, with deductions for shipping charges, freight, and Customs clearance charges, as appropriate.

Home market price was calculated on the basis of the distributor's designated place of delivery price with a deduction for inland freight. Adjustments were made for credit terms, advertising technical assistance, selling expenses, a rebate, and differences in packing, as appropriate.

Exporter's sales price was calculated on the basis of the resale price of the related firm to unrelated purchasers in the United States. Deductions were made for selling expenses, United States duty, ocean freight, marine insurance, handling costs, freight, trucking costs, forwarding charges, additive costs, and processing costs, as appropriate.

Third country price was based on a c.i.f. delivered New Zealand price, with deductions for ocean freight, trucking charges and forwarding charges. Adjustments were made for credit terms and differences in packing.

Using the above criteria, purchase price was found to be lower than the adjusted home market price of such or similar merchandise, and exporter's sales price was found to be higher than third country price.

Acrylonitrile-butadiene-styrene type of plastic resin produced and sold by Ube Cycon, Ltd., of Tokyo, Japan, is excluded from this determination since 100 percent of its export sales during the period under consideration were examined, and no sales were determined to have been made at less than fair value.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] JAMES B. CLAWSON,
Acting Assistant Secretary of the Treasury.

[FR Doc.73-21509 Filed 10-5-73;10:00 am]

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[Notice No. 47]

GRAPES—NEW YORK AND PENNSYLVANIA

Extension of the Closing Date for Filing of Applications for the 1974 Crop Year

Pursuant to the authority contained in § 411.3 of Title 7 of the Code of Federal Regulations, and pursuant to paragraph 1 of the resolution adopted by the Board of Directors of the Federal Crop Insurance Corporation on March 19, 1954, the time for filing applications for grape crop insurance for the 1974 crop year in all counties in New York and Pennsylvania where such insurance is otherwise authorized to be offered is hereby extended until the close of business on December 17, 1973. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

[SEAL] M. R. PETERSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc. 73-21337 Filed 10-5-73;8:45 am]

Forest Service

LAKE QUINAULT SEWAGE COLLECTION AND TREATMENT FACILITY

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Lake Quinault Sewage Collection and Treatment Facility USDA-FS-DES-Adm-74-32.

The environmental statement concerns a proposed sewage collection system and treatment plant. The system is designed to abate pollution to Lake Quinault emanating from Forest Service administrative facilities. The extended aeration plant and drainfield are located within the boundaries of an inventoried roadless study area.

This draft environmental statement was filed with CEQ on October 2, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3231
12th St. & Independence Ave SW.
Washington, D.C. 20250

USDA, Forest Service
Pacific Northwest Region
319 SW. Pine Street
Portland, Oregon 97204

Olympic National Forest
Federal Building
Olympia, Washington 98501

A limited number of single copies are available upon request to Regional Forester T. A. Schlapfer, U.S. Department of Agriculture, Forest Service—Pacific Northwest Region, P.O. Box 3623, Portland, Oregon 97208.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Wynne Maule, P.O. Box 187, Olympia, Washington 98507. Comments must be received by December 2, 1973 in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

OCTOBER 2, 1973.

[FR Doc.73-21334 Filed 10-5-73;8:45 am]

MULTIPLE USE PLAN, NORTH BRIDGER PLANNING UNIT

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Multiple Use Plan—North Bridger Planning Unit, Forest Service Report Number USDA-FS-FES (Adm 74-2.

The environmental statement concerns a proposed implementation of a Multiple Use Management Plan for the North Bridger Mountains, Bozeman Ranger District, Gallatin National Forest in Gallatin County, Montana. The total area is about 60,000 acres, 42,000 of which are National Forest land.

The plan calls for building a new road, a trail, improving other roads, harvesting timber on some areas, and maintaining other areas in a roadless condition. The plan also outlines direction for managing domestic livestock, wildlife populations and ranges, and the Fairy Lake area.

This final environmental statement was filed with CEQ on October 2, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
So. Agriculture Bldg., Room 3231
12th St. & Independence Ave. S.W.
Washington, D.C. 20250

USDA, Forest Service
Northern Region
Federal Bldg., Room 3077
Missoula, Montana 59801

USDA, Forest Service
Gallatin National Forest
P.O. Box 130, Federal Bldg.
Bozeman, Montana 59715

A limited number of single copies are available upon request to Forest Supervisor Lewis E. Hawkes, Gallatin National Forest, P.O. Box 130, Federal Building, Bozeman, Montana 59715.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

OCTOBER 2, 1973.

[FR Doc.73-21333 Filed 10-5-73;8:45 am]

SOUTHEASTERN FORESTRY RESEARCH ADVISORY COMMITTEE

Notice of Meeting

The Southeastern Forestry Research Advisory Committee will meet from 8:30 a.m.–5:00 p.m., on Tuesday, October 30, at the Naval Stores and Timber Production Laboratory located at Olustee, Florida, and from 8:30 a.m.–12 noon on Wednesday, October 31, at the Howard Johnson's Motor Inn, located at the intersection of I–75 and U.S. 90, Lake City, Florida.

On Tuesday, October 30, the meeting will include:

1. Discussion of the status of two new Research and Development Programs—Southern Pine Bark Beetle and Smoke Management.
2. Discussion of research achievements and plans at the Naval Stores and Timber Production Laboratory.
3. Director's report of Southeastern Forest Experiment Station's research activities.

On Wednesday, October 31, the meeting will include comments from the Committee on the research achievement and plans along with a discussion of research in the South, and other Committee business.

The meeting is open to the public. The public may participate in the meeting after the presentations on Tuesday and again on Wednesday. Written statements may be filed with the Committee before or after the meeting. Persons who wish to attend should notify Dr. Robert N. Stone, Assistant Director, Naval Stores and Timber Production Laboratory, P.O. Box 70, Olustee, Florida, 32072, telephone 904–752–0331.

R. L. SCHEER,
Acting Director.

OCTOBER 1, 1973.

[FR Doc.73-21332 Filed 10-5-73;8:45 am]

USE OF OFF-ROAD VEHICLES

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Use of Off-Road Vehicles, USDA–FS–FES (Adm) 73–49.

The environmental statement concerns a proposed action to establish policies and provide for procedures that will ensure that the use of off-road vehicles on National Forest System lands will be controlled and directed so as to protect resources, promote safety of all users and minimize conflicts among the various uses of these lands.

This final environmental statement was filed with CEQ on September 26, 1973.

Copies are available for inspection during regular working hours at the following location:

USDA, Forest Service
So. Agriculture Bldg., Room 3230
12th St. & Independence Ave. SW.
Washington, DC 20250

A limited number of single copies are available upon request to John R. McGuire, Chief, Forest Service, USDA, Washington, DC 20250.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in CEQ Guidelines.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

OCTOBER 2, 1973.

[FR Doc.73-21335 Filed 10-5-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

SOCIAL AND REHABILITATION SERVICE

Statement of Organization, Functions, and Delegations of Authority

Part 5 of the Statement of Organizations, Functions, and Delegation of Authority for the Department of Health, Education, and Welfare, Social and Rehabilitation Service (34 FR 1279, January 25, 1969, as amended) is hereby further amended to reflect the establishment of the Office of the Associate Administrator for Information Systems. For such purpose section 5–B is amended as follows:

Delete the Office of the Assistant Administrator for Program Statistics and Data Systems in its entirety and delete the Division of Management Systems from the Medical Services Administration and insert after the statement for the Associate Administrator for Management the following:

OFFICE OF THE ASSOCIATE ADMINISTRATOR FOR INFORMATION SYSTEMS

Provides direction and control for all activities and functions of the Social and Rehabilitation Service related to statistical analysis, systems analysis, systems design, data reporting and reporting requirements, data processing, teleprocessing and the development, design, implementation and continued use of Information and automated Management Systems; coordinates and disseminates related DHEW Statistical and ADP policy; coordinates and disseminates SRS policy supplements to DHEW Statistical and ADP policy; directs the planning, development and implementation activities of the SRS Management Information System; provides statistical analysis, systems analysis, systems design, data reporting, data processing and teleprocessing services to all SRS organizations; directs and controls the related activities between SRS and all other organizations; provides advice, consultation and assistance to the States on data automation, systems analysis, information systems, statistical analysis and forecasting and the utilization of these tools for more effective management.

OFFICE OF SYSTEMS PLANNING AND EVALUATION

Serves as the principal staff advisor to the Associate Administrator for Information Systems in the planning, evaluation and coordination of management information systems in support of SRS missions. Identifies priority systems developmental activities supportive of SRS program goals and objectives. Develops and administers a unified system development program for long-range planning, monitoring and evaluation of management systems in consonance with Federal, DHEW and SRS policy. Responsible for liaison with appropriate SRS staff offices to identify and assure the development of automated and nonautomated internal systems supportive of SRS management and administration. Responsible for the development and/or coordination of Department-wide systems efforts in support of SRS internal management and administration. Maintains liaison with and coordinates SRS internal management system development with the Regional Offices. Monitors State system activities through the Office of State Systems Operations,

for MIS planning. Responsible for the investigation and evaluation of automated systems throughout the Federal Government relative to their potential application to SRS needs. Conducts program reviews and audits, as required, at the direction of the Associate Administrator for Information Systems. Evaluates proposed information systems to ensure that they are feasible in terms of developmental and operating costs, potential benefits, and are responsive to Federal, State and local objectives and capabilities. Monitors systems under development to assure that objectives are being achieved within planned schedule and cost estimates. Participates with the Office of Program Systems Development and the Office of Information Sciences in the evaluation of systems proposals to assure: adherence to established policy, inclusion of appropriate levels of information, avoidance of redundant developmental efforts, and effective coordination of systems and programmatic objectives.

OFFICE OF PROGRAM SYSTEMS DEVELOPMENT

Responsible for liaison with appropriate SRS Bureaus to specify, plan, develop and deliver automated and non-automated systems for management and administration of the Medical Services, Assistance Payments, Community Services and Rehabilitation Services Programs. Provides project management for systems tasks utilizing resources from the Office of Information Sciences. Produces model systems for use by State and local agencies and provides technical assistance. Maintains liaison with State, local and SRS Regional components as required through the coordination activities of the Office of State Systems Operations. Provides systems support and documentation for use by the Office of Systems Planning and Evaluation in operating the SRS Management Information System.

DIVISION OF MEDICAID SYSTEMS

Responsible for liaison with appropriate SRS Bureaus to specify, plan, develop, and deliver automated and non-automated systems for management and administration of the Medicaid program. Provides project management for systems tasks approved by the Director of Program Systems Development, utilizing resources from the Office of Information Sciences as necessary. Produces model systems for use by State and local agencies and provides technical assistance. Maintains liaison with State, local and SRS Regional components as required through the coordination activities of the Office of State Systems Operations. Provides systems support and documentation for use by the Office of Systems Planning and Evaluation in operating the SRS Management Information System.

DIVISION OF INCOME MAINTENANCE SYSTEMS

Responsible for liaison with appropriate SRS Bureaus to specify, plan, develop, and deliver automated and non-automated systems for management and administration of the income maintenance program. Provides project management for systems tasks approved by the Director of Program Systems Development, utilizing resources from the Office of Information Sciences as necessary. Produces model systems for use by State and local agencies and provides technical assistance. Maintains liaison with State, local and SRS Regional components as required through the coordination activities of the Office of State Systems Operations. Provides systems support and documentation for use by the Office of Systems Planning and Evaluation in operating the SRS Management Information System.

DIVISION OF HUMAN SERVICES SYSTEMS

Responsible for liaison with appropriate SRS Bureaus to specify, plan, develop and deliver automated and non-automated systems for management and administration of human services programs. Provides project management for systems tasks approved by the Director of Programs Systems Development, utilizing resources from the Office of Information Sciences. Produces model systems for use by State and local agencies and provides technical assistance. Maintains liaison with State, local and SRS Regional components as required through the coordination activities of the Office of State Systems Operations. Provides systems support and documentation for use by the Office of Systems Planning and Evaluation in operating the SRS Management Information System. Develops service delivery management systems which support both rehabilitation and social services requirements. Develops and maintains classification systems that serve as standards for problems, services, client characteristics, service units, and needs, in support of rehabilitation and social service requirements.

OFFICE OF INFORMATION SCIENCES

Directs the design, development, operation and evaluation of management information handling processes, data processing, and statistical activities. Serves as the central staff resource of technical skills involving statistics, data processing, systems analysis and standards development for information systems. Provides direction in areas of systems analysis, programming, statistical analysis and forecasting, modeling and simulation, management studies, requirements definition, standards development, program and system evaluation and development of system procedures. Participates in planning policy direction, staff coordination, and technical assistance in the analysis, development, management and evaluation of all SRS information systems.

DIVISION OF FORECASTING AND DATA ANALYSIS

Prepares forecasts (consistent with existing laws and regulations) and projections (consistent with hypothetical alternative laws and regulations which are under consideration) of client populations and program expenditures for major SRS programs, by State, over periods of several future years, designed to meet the information needs of SRS and DHEW policy-makers, and program managers of State government agencies administering SRS programs. Designs, develops, tests, and operates a dynamic computer simulation model system in support of the above function. Develops data bases and parametric functional relationships applicable to SRS client populations needed for incorporation into the computer simulation model system. In performing all of the above functions, utilizes to the maximum feasible extent the results of research by other government and private research agencies. Advises the National Center for Social Statistics on needs for statistical data relevant to the above functions. Plans, directs, coordinates, and leads SRS programs of assistance to the States in the development and utilization of statistical and forecasting techniques. Assists other components of the Office of the Associate Administrator for Information Systems in the development and testing of information systems prior to adoption by the State agencies or by SRS.

Supports SRS program planning and evaluation by developing and analyzing statistical measures of the impact of SRS programs; of needs for and gaps in services provided by the programs; of the effectiveness of State agency programs and operations; of the effectiveness of Federal legislation, and SRS policies. Determines the statistical needs of SRS in cooperation with the Office of Program Planning and the SRS Bureaus; develops the necessary information systems and studies; analyzes data in relation to social and economic trends and conditions.

DIVISION OF DATA PROCESSING

Provides planning, policy, direction and technical services in the field of automatic data processing; develops and implements all information systems in support of SRS management requirements. Programs and implements computer systems in support of Program Bureaus, Regions and States. Controls and operates all computer-based systems (software development, hardware acquisition, rental and maintenance) within SRS; provides data preparation, processing and communication services. Responsible for ADP services for internal support and for programming and data processing for support of other areas. Performs all administrative duties associated with ADP, including but not limited to cost control, procurement, supply requisitioning, training and technical writing. Maintains direct liaison with external offices on ADP matters and provides consultation on matters pertaining to ADP technology.

DIVISION OF SYSTEMS ANALYSIS AND DESIGN

Serves as the principal staff resource for the analysis and design of information systems and processes for SRS Program Bureaus. Provides information integration and coordination services to

these organizations. Conducts surveys and determines information requirements. Develops systems method, procedures and standards for SRS systems design, analysis and developmental activities. Provides analysis and planning of all activities involving the design, implementation, operation or Federal sponsorship, regardless of funding source, of information systems at the Federal, State and local levels. Plans and conducts demonstration projects whose principal purpose is to research and demonstrate information systems techniques and application.

NATIONAL CENTER FOR SOCIAL STATISTICS

Collects and compiles all statistical data reported to SRS. Publishes statistical data. Provides staff coordination, direction, and advice for all mathematical and statistical activities in SRS. Provides technical direction to regional statistical staff and develops and maintains methods and procedures for controlling the quality of reported statistical data; participates in developing and carrying out staff development (training) for State staff employed in research statistics units.

OFFICE OF STATE SYSTEMS OPERATIONS

Serves as the principal coordinating office for systems and Management Information Systems (MIS) in support of SRS programs in the States. Develops and maintains profiles describing for each State the MIS posture, systems development and operations progress and plans, and the State organizational influences upon such activities.

Provides appropriate information to the other elements of the Office of the Associate Administrator for Information Systems to support their respective activities, and acts as liaison between these elements and the States. Provides technical assistance to States in concert with other Information Systems elements and Regional Office participation, to plan for and implement MIS improvements through adoption of model systems. Acts as the control point for review and approval of all applications from States for Federal financial participation in the acquisition of ADP equipment or the design, development, and operation of automated management systems in support of SRS programs. To the extent cities, counties, or State regions are involved directly with SRS in management systems activities, the Office of State Systems Operations has the appropriate coordination responsibility.

With other Information Systems elements and the Regional organization evaluates the effectiveness of the systems developed and equipment utilization by the State and local agencies through Federal financial participation in support of SRS programs. Develops plans and proposals to improve the effectiveness of SRS funded systems utilized by the States.

DIVISION OF TECHNICAL ASSISTANCE

Serves as the principal coordinating office for MIS operations in support of SRS programs in the States and Territories. Develops and maintains profiles describing for each State and Territory the MIS posture, systems development and operations progress and plans, and the State organizational influences upon such activities. Assesses individual State MIS needs and formulates with Regional Office participation, plans and proposals for improving State systems. Evaluates State MIS requirements from a National perspective and prepares model systems proposals to meet those requirements, for development by the Office of Program Systems Development. Provides technical assistance to States, in concert with Regional Office organizations, to plan for, and implement, MIS improvements through adoption of model systems. Provides technical assistance, to States, as required, in other matters relating to MIS activity.

DIVISION OF SYSTEMS APPROVALS

Reviews and approves applications from States for Federal financial participation in the acquisition of ADP equipment or the design of automated information systems in support of SRS programs. Provides technical guidance and direction to Regional office organization relating to ADP equipment acquisition and utilization by State and local agencies. Develops regulations for State and local agencies to follow in applying for Federal financial participation in the cost of ADP equipment acquisition and systems development in support of SRS programs. Evaluates the effectiveness of the use of federally funded ADP equipment by State and local agencies through review of surveys conducted by Regional Office, through review of periodic utilization reports and through on-site visits. Develops plans and proposals to improve the effectiveness of ADP equipment utilization in the States funded by SRS.

Dated October 1, 1973.

ROBERT H. MARIK,
Assistant Secretary for Administration and Management.

[FR Doc.73-21353 Filed 10-5-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-73-255]

GENERAL COUNSEL ET AL.

Delegation of Authority To Act as Secretary

SECTION A. *Authority delegated.* During the existence of a civil defense emergency as described in section B of this delegation, if the Secretary of Housing and Urban Development and the Under Secretary are both unable to act by reason of absence, disability, or vacancy in office, the appointees to positions listed in this section A are authorized to act as Secretary with all the powers, functions, and duties assigned to or vested in him: *Provided,* That none of the named officials shall act as Secretary unless all of the appointees listed before such official's title in this delegation are unable to act by reason of absence, disability, or vacancy in the office:

1. General Counsel
2. Assistant Secretary for Policy Development and Research
3. Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner
4. Assistant Secretary for Housing Management
5. Assistant Secretary for Community Planning and Development
6. Assistant Secretary for Equal Opportunity
7. Assistant Secretary for Legislative Affairs

SECTION B. *Applicability.* The delegations in section A shall become effective only in the event of a civil defense emergency declared or proclaimed by the President or by Concurrent Resolution of the Congress in accordance with Section 301 of the Federal Civil Defense Act of 1950, 64 Stat. 1251, 50 U.S.C. App. 2291.

SECTION C. *Revocation.* The supplemental designation of Acting Secretary, Department of Housing and Urban Development, 36 FR 14773, August 11, 1971, is hereby revoked.

(Sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d); Executive Order 11274, 31 FR 5243; Executive Order 11490, 34 FR 17567.)

Effective date.—This delegation of authority is effective as of October 9, 1973.

JAMES T. LYNN,
Secretary of Housing and Urban Development.

[FR Doc.73-21328 Filed 10-5-73;8:45 am]

DEPARTMENT OF LABOR

Offic of the Secretary

FEDERAL MOGUL CORP., SOUTHFIELD, MICH.

Investigation Regarding Certification of Eligibility of Workers To Apply for Adjustment Assistance

The Department of Labor has received a Tariff Commission report containing an affirmative finding under section 301 (c)(2) of the Trade Expansion Act of 1962 with respect to its investigation of a petition for determination of eligibility to apply for adjustment assistance filed on behalf of workers of the Detroit, Michigan plants of the Bower Roller Bearing Division of the Federal Mogul Corp., Southfield, Michigan. In view of the report and the responsibilities delegated to the Secretary of Labor under section 8 of Executive Order 11075 (28 FR 473), the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under Title III, Chapter 3, of the Trade Expansion Act of 1962 including the determination of related subsidiary subjects and matters, such as

the date unemployment or underemployment began or threatened to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart B of 29 CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. 20210, on or before October 16, 1973.

Signed at Washington, D.C., this 2d day of October 1973.

GLORIA G. VERNON,
Director, Office of Foreign Economic Policy.

[FR Doc.73-21347 Filed 10-5-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

SHIPMENT OF HAZARDOUS MATERIALS

Issuance of Special Permits

Pursuant to Docket No. HM-1, rulemaking procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 FR 8277) 49 CFR 170, following is a list of new DOT Special Permits upon which Board action was completed during September 1973:

Special permit No.	Issued to—Subject	Mode or modes of transportation
6792	Shippers registered with this Board to ship methyl bromide containing not more than 2% chloropicrin and nonflammable, nonliquefied compressed gas mixtures, liquid in cylinders prescribed in § 173.353(a) (3).	Highway, Rail Cargo vessel.
6795	Shippers registered with this Board to ship liquefied petroleum gas in foreign-made aluminum cylinders complying with DOT Specification 4E except for certain material and construction deviations.	Highway, Rail.
6798	Allied Chemical Corporation, Morristown, N.J., to ship chromic acid in steel, portable tanks, complying with DOT Specification 56 except as otherwise specified.	Highway.
6802	Fitch Industrial & Welding Supply, Inc., Lawton, Oklahoma to ship pressurized liquid argon, nitrogen or oxygen in a non-DOT specification truck-mountable, cargo tank fabricated from Type 304 stainless steel.	Highway.
6806	Shippers registered with this Board to ship hydrogen gas in a DOT Specification 3E-1800 cylinder which is a component part of a "Portable Gas Chromatrograph" device.	Passenger-carrying aircraft.
6807	Baker Castor Oil Company, Bayonne, N.J., to ship certain flammable solids in a limited number of Rule 40 metal drums of 30 and 55 gallon capacity.	Highway.
6808	Union Carbide Corporation, Oak Ridge, Tennessee to make a onetime shipment of metallic lithium, metallic potassium and sodium potassium alloy in non-DOT specification tanks.	Highway.
6809	H. J. Baker & Bro., Inc., New York, N.Y., to ship potassium nitrate in a 4-mil polyethylene bag inside a woven polypropylene bag.	Highway, Rail Cargo vessel.
6810	Bureau of Mines, Amarillo, Texas to ship helium in seamless steel tanks (tubes) made, marked and maintained in compliance with DOT Specification 107A except they are not mounted on a rail car.	Highway.
6813	Monsanto Company, St. Louis, Mo., to ship a flammable precipitate containing alcohol in a limited number of Rule 40 open head steel drums.	Highway.

ALAN I. ROBERTS.

[FR Doc.73-21411 Filed 10-5-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets 25940, 22859, Order 73-10-5]

AMERICAN AIRLINES, INC. ET AL.

Order Regarding Domestic Air Freight Rate Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of October 1973.

By Order 73-8-46, adopted August 9, 1973, the Board suspended container loading and/or unloading services and charges proposd by American Airlines, Inc. (American), Braniff Airways, Inc. (Braniff), and United Air Lines, Inc. (United). The Board did not institute a separate investigation of these proposals, but noted that they come within the scope of the Domestic Air Freight Rate Investigation, Docket 22859, and their lawfulness would be determined in that proceeding.

By document filed August 20, 1973, WTC Air Freight (WTC) and Shulman Air Freight, Inc. (Shulman) jointly submitted a petition requesting that the Board (1) reconsider the foregoing order to the extent that it does not institute separate investigation of the proposed provisions, and (2) order that such an investigation be initiated.[1]

In support of their request, the petitioners allege, inter alia, that: (1) Since the determination of the lawfulness of the proposed container provisions (revisions to tariffs already under investigation in the Domestic case) has been left for decision in that case, these provisions can go into effect when the maximum suspension period is exhausted; (2) these provisions consequently can remain in effect until a final Board order is issued in the Domestic case, which may be several years away; and (3) because of the great importance of the suspended proposals, all appropriate and expeditious steps should be taken to prevent the tariffs from going into effect pending a final determination following their investigation.

No answers to the petition for reconsideration have been filed.

In finding that the proposed tariff revisions should be suspended, the Board stated, in the foregoing order, that the proposals would significantly reduce the carrier economics of containerization for the shipments involved and reduce the justification for the current container discounts to shippers. We concluded that, "Such basic changes in the economics of containerized service should, in our view, await conclusion of the cost and other studies presently in process in the Domestic Air Freight Rate Investigation."

The determination of whether to set the proposal for separate hearing or leave the issues to be resolved at a later date in the Domestic case is a matter of judgment upon a procedural issue; however, there is no question about the importance of the issues raised by the proposed tariff changes nor about the consequences for other elements of the industry as set forth in the petitions for reconsideration. Accordingly, we are by this order amending our prior order so as to initiate a separate investigation limited to the specific issues raised by the tariff filings.

In reaching the foregoing conclusion we are giving additional weight to the considerations that the proposal may significantly affect the carrier economics of containerization for the shipments involved and reduce the justification for the current container discounts to shippers. By this action, should the carriers not cancel their tariffs, the Board would be in a position to reach a final decision upon the issues involved far ahead of the time expected for final decision in the Domestic case.[2]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof, *it is ordered*, That:

1. Order 73-8-46, dated August 9, 1973, is amended to add the following:

(a) An investigation is instituted to determine whether the rates, charges and provisions described in Appendix A hereto and rules, regulations, and practices affecting such rates, charges and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, charges and provisions, and rules, regulations, or practices affecting such rates, charges and provisions;

(b) The proceeding herein be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated.

[1] We have not considered a petition requesting similar relief filed by The Flying Tiger Line Inc. since it was not received until after expiration of the 10-day period prescribed by § 302.37 of our regulations for filing petitions for reconsideration of interlocutory orders.

[2] The finding and decision in this proceeding will be subject to such further finding as may be developed in the Domestic case.

2. Except to the extent indicated herein, the petitions for reconsideration filed herein in Dockets 25691 and 25725 are hereby denied.

3. Copies of this order shall be filed with the tariffs and served upon American Airlines, Inc., Braniff Airways, Inc., The Flying Tiger Line Inc., United Air Lines, Inc., WTC Air Freight, and Shulman Air Freight, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-21357 Filed 10-5-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FIFRA Docket No. 295]

2,4,5-TRICHLOROPHENOXYACETIC ACID (2,4,5-T)

Order Fixing Parties to Hearing

By notice dated July 19, 1973, and published in the FEDERAL REGISTER on July 24, 1973 (38 FR 19860), the Assistant Administrator, Environmental Protection Agency, under authority of section 6(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.), as amended by the Federal Environmental Pesticide Control Act of 1972 (86 Stat. 973), gave notice of his intention to hold a hearing on all registered uses of 2,4,5-Trichlorophenoxyacetic Acid (2,4,5-T), other than on the use for rice which was canceled on May 1, 1970 (USDA-PRD 70-13), as reaffirmed by order of August 6, 1971 (36 FR 1477, Aug. 11, 1971), with the further intention that the public hearing concerning the use on rice (I.F.&R. Dockets No. 42, 44, 45, and 48) be consolidated with the hearing called for all other uses. Under said notice, any person who wished to become a party to the hearing was required to file by August 23, 1973, a response to the statement of issues which accompanied the notice and which was published therewith.

Pursuant to § 164.8 of the rules of practice for the conduct of these hearings (38 FR 19371, July 20, 1973), notice is hereby given that the following firms, associations, and governmental units which have filed timely responses to the notice of July 19, 1973, are parties to the proceeding:

1. Amchem Products, Inc.
   R. J. Otten
   Manager/Regulatory Affairs
   Ambler, Pennsylvania 19002
2. Association of American Railroads
   Harry J. Breithaupt, Jr., Esquire
   General Counsel
   Law Department
   American Railroads Building
   Washington, D.C. 20036
3. Dow Chemical Company, The
   Milton R. Wessel, Esquire
   Kaye, Scholer, Fierman, Hays & Handler
   425 Park Avenue
   New York, New York 10022
4. National Forest Products Association
   Robert S. Bassman, Esquire
   Environmental Counsel
   1619 Massachusetts Avenue NW.
   Washington, D.C. 20036
5. Thompson-Hayward Chemical Company
   Lindley S. DeAtley
   Senior Vice President and
   Director of Research & Development
   P.O. Box 2383
   Kansas City, Kansas 66110
6. Transvaal, Inc.
   J. Robert Hasness
   Director of Technical Services
   P.O. Box 69
   Jacksonville, Arkansas 72076
7. United States Department of Agriculture
   Alfred R. Nolting, Esquire
   Raymond W. Fullerton, Esquire
   Office of the General Counsel
   14th & Independence Avenue SW.
   Washington, D.C. 20250
8. United States Department of Transportation
   J. Thomas Tidd, Esquire
   General Counsel
   Washington D.C. 20590

In addition, Respondent Assistant Administrator of the office of Hazardous Materials Control, Environmental Protection Agency, is represented by Anson M. Keller, Esquire, Office of General Counsel, Environmental Protection Agency, Room 511 Waterside Mall, West Tower, 401 M Street SW., Washington, D.C. 20460.

Certain persons, firms and associations have indicated their desire to become parties but have failed to file adequate or timely responses and it is hereby determined that they are not parties herein. (See § 164.5 of the above-mentioned rules of practice.) Any person not included in the above list of parties may show cause before me, in writing, not later than October 19, 1973, why he should be added as a party to this proceeding. In addition, for those who wish to intervene in this proceeding attention is called to section 164.31 and the requirements of § 164.24 of the above-mentioned rules of practice. Persons who have filed notices of their desire to testify in this proceeding should communicate with appropriate party-participants.

HERBERT L. PERLMAN,
Chief Administrative Law Judge.

OCTOBER 3, 1973.

[FR Doc.73-21340 Filed 10-5-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RI73-304, et al.]

RATE CHANGES

Order Providing for Hearing and Suspension, and Allowing Changes To Become Effective Subject to Refund; Correction

JUNE 13, 1973.

In the Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes to Become Effective Subject to Refund, Issued June 13, 1973 and published in The FEDERAL REGISTER June 22, 1973, 38 FR 16425: APPENDIX "A" Docket No. RI 73-309, Atlantic Richfield Co.

Under column headed "Supplement Number" change "21" to "35" opposite Rate Schedule No. 20.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21361 Filed 10-5-73;8:45 am]

[Docket No. RP73-98]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Proposed Change in Rates and Charges

OCTOBER 1, 1973.

Take notice that Algonquin Gas Transmission Company (Algonquin), on September 14, 1973, tendered for filing the following Revised Tariff Sheets to its FPC Gas Tariff Original Volume No. 1:

First Revised Sheet No. 11-C
Second Revised Sheet No. 11-D
Original Sheet No. 30-H
Original Sheet No. 30-I

The amount of increase is $17,842,776 annually.

Algonquin states that on April 31, 1973, concurrent with the filing of its initial Rate Schedule SNG-1, it filed a change in its SNG-1 rate to recoup the cost of feed stock related to synthetic gas. That filing, which was assigned Docket No. RP73-98, was rejected by Commission order issued June 5, 1973, on the basis that the initial rate schedule was being rejected. On June 8, 1973, Algonquin refiled its initial Rate Schedule SNG-1 and concurrently filed in Docket No. RP73-98 the same change in Rate Schedule SGN-1. On August 10, 1973, the initial Rate Schedule SNG-1 was accepted by the Commission (conditioned upon modification of the minimum bill provision which has since been done), but by subsequent order issued rate change in Docket No. RP73-98.

Algonquin states that the above listed tariff sheets were tendered for filing in order to refile the change in the SNG Rate to recover costs and to comply with the Commission Order issued August 29, 1973. The filing incorporates by reference Algonquin's entire rate filing made on June 15, 1973, in Docket No. RP 73-112.

Algonquin proposed that the above listed tariff sheets become effective as of the same date of initial SNG-1 service and requests that they be suspended for one day. Algonquin further requests that this docket be consolidated with the Docket No. RP73-112.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C., in accordance with § 1.8 and § 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions should be filed on or before October 10, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken

but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21397 Filed 10-5-73;8:45 am]

[Project No. 271]

ARKANSAS POWER AND LIGHT CO.

Order Providing for Hearing; Correction

SEPTEMBER 10, 1973.

In the Order Providing for Hearing, Issued September 10, 1973 and published in the FEDERAL REGISTER September 19, 1973, 38 FR 26233:

Commissioner Moody's dissenting statement was inadvertently attached to this order.

Please delete the reference to the dissent on last page after "By the Commission."

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21362 Filed 10-5-73;8:45 am]

[Docket No. E-8333]

CENTRAL TELEPHONE & UTILITIES CORP.

Order Accepting Settlement Rates

SEPTEMBER 26, 1973.

On July 26, 1973, the Western Power Division of Central Telephone & Utilities Corporation (Central Telephone) filed with the Commission two proposed rate schedules, Schedule 73-CWH-2, for REA Cooperative customers and Schedule, 73-MWH-5, for Municipal Wholesale customers. These rate schedules are proposed to supersede Rate Schedules 68-CWH-2 and 68-MWH-5. The proposed changes, according to Central Telephone's filing, would increase revenues from jurisdictional sales and service approximately $494,000 for the Cooperatives and $26,000 for the Municipals based on sales for the 12 month period ending December 31, 1972.

According to the Company, the proposed changes differ from the presently effective rate schedules in that Rate Schedules 73-CWH-2 and 73-MWH-5 have been adjusted to produce a two-stage increase resulting in a total increase for the Cooperatives and Municipals of 25 percent and 6 percent respectively. Other changes include a calculation of billing demand based on a ratchet provision, the removal of the non-peak provisions contained in the currently effective Rate Schedule 68-CWH-2, and a restatement of the fuel adjustment clause in the present rate schedules.

According to Central Telephone, the rates of return which the new rates will provide, based on the test year ended December 31, 1972, and after reflecting the second stage of the proposed increase, are 6.35 percent for service to the REA Cooperatives and 6.39 percent for service to the Municipal Wholesale customers. The Company proposes an effective date of September 26, 1973.

The filing, in the form of a settlement agreement (Agreement), satisfies the filing requirements under section 206 of the Federal Power Act and the regulations promulgated thereunder. Central Telephone states that the proposed rate change is the result of extensive negotiations between the Company and its REA Cooperative and Municipal Wholesale customers, and an essential feature of the settlement is the Company's agreement to a moratorium on rate increases to be effective before September 26, 1975.

The filing was noticed on August 6, 1973, with protests and petitions to intervene due on or before August 24, 1973. On August 13, 1973, the State Corporation Commission of the State of Kansas filed a pro forma Notice of Intervention wherein no specific allegations or requests were made. No other petitions or protests were received.

Our review of the settlement indicates that approval of the Agreement is in the public interest. The proposed rates are not excessive,[1] and we shall therefore accept the agreement and proposed rate schedules to be effective as of the requested effective date of September 26, 1973, as ordered hereinafter.[2] We note however, that the moratorium provision, though mentioned in the Company's cover letter to its filing, is nowhere indicated in either the proposed contracts or the proposed tariff sheets. We shall therefore require that the necessary amendments and executed contracts be submitted.

The Commission finds

Approval, as ordered below, of the settlement proposed in this docket on the basis of the Agreement and proposed rate schedules pursuant thereto, filed on July 26, 1973, is just and reasonable and in the public interest in carrying out the provisions of the Federal Power Act.

The Commission orders

(A) The Agreement and proposed rate schedules, Schedule 73-CWH-2 and Schedule 73-MWH-5, are accepted to become effective as of September 26, 1973, as ordered below.

(B) Within 30 days Central Telephone shall file with the Commission such contract and tariff amendments to its Rate Schedule as are required pursuant to the terms of the Agreement relating to the moratorium provision,

(C) Within 30 days Central Telephone shall file with the Commission fully executed contracts pursuant to the terms of the Agreement.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] See Appendix A for a capitalization and summary cost of service.

[2] See Appendix B for designations.

APPENDIX A

CAPITALIZATION (AS PER COMPANY FIGURES) APRIL 30, 1973

	Amount	Ratio	Cost	Weighted return
		(*Percent*)		(*Percent*)
Debt	$128,518	33.30	6.48	2.16
Preferred stock	29,353	7.60	5.21	.40
Common stock equity	226,674	58.73	5.53-6.52	
Accelerated amortization (Account 281)	1,444	.37	0	0
Total	$385,989	100.00		5.81-6.39

SUMMARY COST OF SERVICE (AS PER COMPANY FIGURES) TEST PERIOD-12 MONTHS ENDED DECEMBER 31, 1972

Line No.	Description	First year of new contracts	Second year of new contracts
	Col. 1	Col. 2	Col. 3
	REA COOPERATIVES		
1	Operating expense	$1,399,518	$1,399,518
2	Depreciation expense	383,403	383,403
3	Taxes, other than income taxes	264,179	264,179
4	Total expenses	2,047,105	2,047,105
	Allowances for income taxes and return based upon the rate of return claimed:		
5	Income taxes	305,300	350,208
6	(1) Claimed return	511,289	559,212
7	Total over-all cost of service	2,863,694	2,962,525
8	Less: Revenue from sales to nonassociated utilities	485,967	485,967
9	Net over-all cost of service	2,377,727	2,476,558
10	Less: Interest during construction	5,800	5,800
11	Net over-all cost of service (Revenue requirement)	2,371,927	2,470,758
12	Operating revenues during the test period	1,970,000	1,970,000

Line No.	Description	First year of new contracts	Second year of new contracts
	Col. 1	Col. 2	Col. 3
	Claimed Return		
13	Original cost rate base (average)	8,892,643	8,892,643
14	(1) Claimed return	511,280	529,212
15	Claimed rate of return as a percentage of rate base	5.81	6.35
	(1) Claimed return is based upon proposed increases in gross revenue.		
	MUNICIPAL WHOLESALE		
1	Operating expense	$231,447	$231,447
2	Depreciation expense	76,620	76,620
3	Taxes, other than income taxes	53,263	53,263
4	Total expenses	361,330	361,330
	Allowances for income taxes and return based upon the rate of return claimed;		
5	Income taxes	65,162	71,630
6	(1) Claimed return	106,282	112,053
7	Total over-all cost of service	532,774	545,013
8	Less: Revenue from sales to nonassociated utilities	80,469	80,469
9	Net over-all cost of service	452,305	465,444
10	Less: Interest during construction	1,200	1,200
11	Net over-all cost of service (Revenue requirement)	451,105	464,244
12	Operating revenues during the test period	437,960	437,960
	Claimed Return		
13	Original cost rate base (average)	1,764,282	1,764,282
14	(1) Claimed return	106,282	112,053
15	Claimed rate of return as a percentage of rate base	6.02	6.29
	(1) Claimed return is based upon proposed increases in gross revenue.		

[FR Doc.73-21175 Filed 10-5-73;8:45 am]

[Docket No. E-7925]

CINCINNATI GAS AND ELECTRIC CO.

Notice of Filing of Motion To Terminate

OCTOBER 1, 1973.

Take notice that on September 21, 1973, the Commission staff filed a motion to suspend procedural dates and terminate the proceeding in the above-referenced docket. In its motion, the Commission staff states that upon careful consideration of the Company's rebuttal evidence placed upon the record at a prehearing conference on August 30, 1973, and upon further review of the filing, its supporting data, and certain revisions of the responses of the Company to the staff's data requests, the staff believes that the Company's proposed rates are just and reasonable. The staff states that such a conclusion is conditioned upon the Company filing a revised fuel clause in conformance with Commission Opinion No. 633.

Any person desiring to comment upon said motion should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such comments should be filed on or before October 9, 1973. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this motion are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21401 Filed 10-5-73;8:45 am]

[Docket No. CP73-342]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Application; Correction

JULY 11, 1973.

In the Notice of Application, issued July 11, 1973 and published in the FEDERAL REGISTER July 18, 1973, 38 FR 19155:

Paragraph 2, line 8:

Change "transported by Applicant to" to read "received by Applicant at."

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21363 Filed 10-5-73;8:45 am]

[Docket No. E-8105, et al.]

CONNECTICUT LIGHT AND POWER CO.

Notice of Extension of Time and Postponement of Hearing

SEPTEMBER 26, 1973.

On September 19, 1973, the Connecticut Light and Power Co. filed a petition for an extension of time to file its direct testimony and a related extension of the other procedural dates. On September 20, 1973, Staff Counsel filed a response opposing in part, the petition for an extension of time. At the prehearing conference held on September 21, 1973, the following procedural dates were agreed to on the record:

Service of revised testimony by Staff, September 26, 1973.
Service of Company testimony, October 24, 1973.
Hearing, November 7, 1973, 10:00 a.m., e.s.t.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21369 Filed 10-5-73;8:45 am]

[Docket No. CP73-50]

DELHI GAS PIPELINE CORP.

Notice of Petition To Amend

OCTOBER 2, 1973.

Take notice that on September 11, 1973, Western Gas Interstate Co. (Petitioner), 1500 Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP73-50 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act on November 28, 1972, by authorizing Petitioner to continue without change the sale for resale of natural gas in interstate commerce authorized to be made by Delhi Gas Pipeline Corp. to Transwestern Pipeline Corp. in Eddy County, New Mexico, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 26, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21370 Filed 10-5-73;8:45 am]

[Docket No. E-8364]

DETROIT EDISON CO.

Notice of Supplements to Interconnection Agreements

SEPTEMBER 28, 1973.

Take notice that on August 17, 1973, Detroit Edison Co. (Applicant) filed with the Federal Power Commission, pursuant to Section 35 of the Regulations under the Federal Power Act, revisions to Supplement A, dated May 16, 1973, and Supplements C, O, and S, each dated August 3, 1973, to the Interconnection Agreement between Applicant, Consumers Power Co. (Consumers) and the Hydro Electric Power Commission of Ontario (Ontario Hydro), dated May 23, 1969, and designated in Applicant's Rate Schedule FPC No. 13.

Said revisions consist of the recognition of the conversion from 115 kV and 120 kV to 230 kV operation of the interconnections between Applicant and Ontario Hydro—Supplement A. Other revisions concern changes in price struc-

ture which more closely reflect today's costs and which will conform with agreements between Applicant and other domestic power companies. Price changes concern the Demand Charge (Supplement C), the charge for Capacity Spinning Reserve (Supplement O) and the Demand Charge for Supplemental (Short Term) Power (Supplement S).

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before October 25, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21371 Filed 10-5-73;8:45 am]

[Docket No. CI74-189]

ELIZABETH F. DORFMAN TRUST, ET AL.

Notice of Application

OCTOBER 2, 1973.

Take notice that on September 14, 1973, Elizabeth F. Dorfman Trust, et al. (Applicant), 1750 Mercantile Dallas Building, Dallas, Texas 75201, filed in Docket No. CI74-189 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Co. (United) from the Willow Springs Field, Gregg County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to United at an initial price of 50.0 cents per Mcf at 14.7 p.s.i.a., subject to upward and downward Btu adjustments, pursuant to a letter agreement dated July 16, 1973. The agreement provides for a 1.0-cent Mcf price escalation each year, for reimbursement to the seller for three-fourths of all taxes in excess of the aggregate amount of taxes per Mcf which would have been payable by seller if the sale of gas had been made on July 1, 1973, at the price per Mcf paid when the sale actually occurred, and for a term ending January 1, 1992. Applicant estimates delivery of gas from the acreage covered by the application will average 12,000 to 13,000 Mcf per month from each of the seven proposed development wells.

Applicant asserts that United is experiencing a critical shortage of natural gas and has had to curtail its service extensively. Applicant further asserts that the gas proposed to be sold will be domestic, onshore gas committed to the interstate market at a price which is less than that now being offered by many intrastate purchasers and as such is particularly beneficial to United which has facilities leading to the areas of delivery. Applicant states the total estimated cost of drilling and completing each new well is $202,687 yielding a 4.8 percent return on investment over 20 years based on the proposed rate of 50 cents per Mcf. Applicant states that the revenues resulting from the new gas sales at the proposed price will enable it to invest in additional exploration and development efforts which otherwise could not be made. Applicant asserts that the sales of gas herein proposed would be less costly to the consumer than would any alternative source of supply, noting that sales of liquified natural gas would cost in excess of 50 cents per Mcf and that recent indications are that liquefied natural gas and synthetic natural gas, made from coal or naptha, would cost in excess of $1.25 per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21373 Filed 10-5-73;8:45 am]

[Docket No. E-8367]

DUKE POWER CO.

Notice of Supplement to Contract

SEPTEMBER 28, 1973.

Take notice that on August 20, 1973, Duke Power Co. (Applicant) filed with the Federal Power Commission, pursuant to section 35 of the Regulations under the Federal Power Act, a supplement to an Electric Power Contract, designated as Applicant's Rate Schedule FPC No. 253, with the State of North Carolina through the University of North Carolina at Chapel Hill.

This supplement (Exhibit A) provides for a new delivery point and regulation at this point of the secondary bus voltage, which will be supplied by a tap changing under load transformer for an extra facilities charge. In order to provide service under this agreement the Applicant will tap its 100 kV transmission system, extend approximately 1.3 miles of 100 kV double circuit line to the customer's substation location and build a 100/12.5 kV substation.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21372 Filed 10-5-73;8:45 am]

[Docket No. RP72-154]

EL PASO NATURAL GAS CO.

Notice of Corrections in Rate Filing

SEPTEMBER 27, 1973.

Take notice that on September 14 and 20, 1973, El Paso Natural Gas Co. (El Paso), tendered for filing corrections to its original filing of August 16, 1973, for a change in rates. The original filing was noticed on August 24, 1973, and required all petitions of intervention or protests to be filed on or before September 12, 1973.

In its filing of September 14, 1973, El Paso corrects its original filing to reflect an actual balance in Account 191 as of June 30, 1973, and makes a corresponding correction to the surcharge rate. El Paso alleges that the effect of correcting the unrecovered purchase gas cost account to the balance per El Paso's books is to increase the surcharge rate from 1.44¢

per Mcf (0.138¢ per therm) to 2.16¢ per Mcf (0.207¢ per therm). Further, the resulting total adjustments to jurisdictional rates would be 5.56¢ (0.533¢ per therm) rather than 4.84¢ (0.464¢ per therm) and the resulting net increase in rates is 4.01¢ per Mcf (0.384¢ per therm).

In El Paso's filing of September 20 it points out that the average purchased gas costs reflected on the two statement of rates tariff sheets tendered with the September 14 correction were inadvertently interchanged. The average purchased gas cost, as reflected on Substitute Eleventh Revised Sheet No. 10 of 30.73¢ per Mcf and 2.96¢ per therm should be changed to 32.54¢ per Mcf and 3.13¢ per therm, respectively. Similarly, the average purchased gas cost set forth on the alternate Substitute Eleventh Revised Sheet No. 10 of 32.54¢ per Mcf and 3.13¢ per therm should be changed to 30.73¢ per Mcf and 2.96¢ per therm, respectively.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 22, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Parties who have previously filed protests or petitions to intervene need not file new protests or petitions relating only to this notice. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21374 Filed 10-5-73;8:45 am]

[Docket No. RP74-7]

EL PASO NATURAL GAS CO.

Notice of Withdrawal of Tariff Filing

OCTOBER 1, 1973.

Take notice that on September 24, 1973, El Paso Natural Gas Company (El Paso) filed a notice of withdrawal of its tariff filing of August 1, 1973, in the above-referenced docket. The withdrawn filing is Fourth Revised Sheet No. 67 and First Revised Sheet No. 67-A to El Paso's FPC Gas Tariff, Original Volume No. 1, which was noticed on September 7, 1973, with comments due on or before September 28, 1973. The stated purpose of the revised tariff sheets was to modify the Purchased Gas Cost Adjustment Provision (PGAC), as contained in Section 19 of the General Terms and Conditions of the Original Volume No. 1 Tariff, applicable to El Paso's Southern Division System, so as to permit the inclusion in PGAC rate adjustments of any changes in the current level of unit amounts per Mcf payable to owners of overriding royalty interests, attributable to leases acquired by El Paso prior to October 7, 1969, which may be awarded to such owners by boards of arbitration in arbitration proceedings between El Paso and Sun Oil Company. El Paso states that it has concluded that its exposure is such that the relief requested in the tariff filing of August 1, 1973, is not sufficient to afford protection from potential increases in unit amounts per Mcf which may be determined to be payable. El Paso states that it is filing concurrently a notice of change of rates pursuant to section 4 of the Natural Gas Act and Part 154 of the Regulations for the express purpose of recovering increases in cost of gas incurred as a result of increased overriding royalty payments which may become payable to owners of special overriding royalty interests.

Any person desiring to coment upon said notice of withdrawal should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such comments should be filed on or before October 9, 1973. Copies of this notice of withdrawal are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21398 Filed 10-5-73;8:45 am]

[Docket No. CP74-35]

EXXON PIPELINE CO. OF CALIFORNIA

Notice of Application; Correction

SEPTEMBER 6, 1973.

In the Notice of Application, issued August 14, 1973 and published in the FEDERAL REGISTER August 22, 1973, 38 FR 22574: Paragraph 2, line 8: Change "Applicant's" to "a" Paragraph 2, line 10: Strike "and processing" Paragraph 5, line 15: Strike "and extraction of the liquefiable hydrocarbon" Paragraph 5, lines 17 and 18: Change "residue" to "the", and insert after the word "tailgate" the following: ". After processing by Exxon residue volumes will be available," Paragraph 3, line 3: Strike "and processing"

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21364 Filed 10-5-73;8:45 am]

[Docket Nos. CP66-110 and CP66-112]

GREAT LAKES GAS TRANSMISSION CO.

Petition To Amend Certificate and Import Authorization

OCTOBER 2, 1973.

Take notice that on September 7, 1973, Great Lakes Gas Transmission Co. (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket Nos. CP66-110 and CP66-112 a petition to amend the order of the Commission issued in said dockets on June 20, 1967 (37 FPC 1070), pursuant to sections 3 and 7 (c) of the Natural Gas Act, so as to reflect the addition of a price adjustment provision to the original gas purchase contract dated July 14, 1967, as amended between Petitioner and TransCanada Pipelines Limited (TransCanada), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued June 20, 1967, Petitioner was authorized among other things, to construct and operate certain facilities for the purchase and transportation of up to 87,600 Mcf of natural gas per day and to import such volumes at a point on the International Boundary near Emerson, Manitoba. Purchases are made under the terms of Petitioner's gas purchase contract with TransCanada dated July 14, 1967 (Gas Purchase Contract No. 1). The petition states that contract provides for certain periodic escalations in price every five years but contains no provision relating the price to be paid by Petitioner to TransCanada's Manitoba Zone Rate.

Petitioner states it has entered into two subsequent contracts with TransCanada for the purchase of additional volumes of natural gas, authorized by the Commission to be imported and transported by orders issued April 30, 1970, in Docket No. CP70-19, et al. (43 FPC 635), and June 1, 1971, in Docket No. CP71-222 and CP71-223 (45 FPC 1034 and 1037). All three of these contracts provide for periodic price escalations every five years and for delivery of gas at the same point on the International Boundary near Emerson, Manitoba, which is at the end of TransCanada's Manitoba Rate Zone. These latter two contracts (Gas Purchase Contract No. 2 and No. 3), however, contain clauses tying the price to TransCanada's Manitoba Zone Rate.

Petitioner requests the Commission to amend its order issued June 20, 1967, to reflect a modification to Gas Purchase Contract No. 1, as proposed by a precedent agreement between Petitioner and TransCanada dated April 30, 1973. The terms of this agreement, as stated in the petition to amend, provide for the addition of a provision to bring Gas Purchase Contract No. 1 into conformity with Contract Nos. 2 and 3. This provision, the Manitoba Zone Rate Adjustment Clause, would relate the import price paid by the Petitioner to 105 percent of TransCanada's Manitoba Rate.

Petitioner states the proposed change is needed in order to allow TransCanada to continue to acquire new reserves of gas in order to maintain full deliverability for its export requirements. Petitioner further states that the inclusion of the Manitoba Zone Rate adjustment Clause in Contract No. 1 will not allow automatic flow through of increases in TransCanada's purchased gas costs or other costs as adjustments in the Manitoba Zone Rate can only be made prospectively after National Energy Board review and approval. For the above reasons, Petitioner requests the Commission to amend its order in the instant dockets

issued June 20, 1967, to reflect Petitioner's agreement with TransCanada.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 26, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21376 Filed 10-5-73;8:45 am]

[Docket No. E-8121]

GULF STATES UTILITIES CO.

Notice of Filing of Contract

OCTOBER 1, 1973.

Take notice that on August 6, 1973, Gulf States Utilities Company (Gulf States) filed an Agreement for Electric Service (Agreement) with the City of Greydan, Louisiana dated February 3, 1959. Gulf States states that the Agreement inadvertently had not previously been filed with the Commission. Gulf States requests waiver of the Commission's notice requirements to permit an appropriate effective date consistent with the agreement date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10): All such petitions or protests should be filed on or before October 16, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Parties who have previously filed intervention petitions in this docket need not refile such petitions. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21377 Filed 10-5-73;8:45 a.m.]

[Docket No. E-8121]

GULF STATES UTILITIES CO.

Notice of Contract Cancellations

SEPTEMBER 26, 1973.

Take notice that on September 17, 1973, in the above reference docket, Gulf States Utilities Co. (Gulf States) filed with the Commission three notices of contract termination affecting Gulf States' FPC Rate Schedule No. 51 (with the Town of Welsh, Louisiana) to be effective November 20, 1973, FPC Rate Schedule No. 54 (with the City of Kaplan, Louisiana) to be effective November 1, 1973, and FPC Rate Schedule No. 79 (with the Houston County Electric Cooperative, Inc.). Gulf States states that the cancellations are made in accordance with the terms of the contracts and the directives of the Commission's order of June 14, 1973, in this docket. As to the notice of cancellation for the Houston County Electric Cooperative, Inc., Gulf States requests waiver of the Commission's notice requirements to permit an effective date of August 1, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 16, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. If a person has intervened previously in this docket no further petition to intervene is required. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21375 Filed 10-5-73;8:45 am]

[Docket Nos. CS71-878, CI73-431, CI73-558, CI61-1379, CI73-578, CP74-15]

HURLEY PETROLEUM CORP.

Order To Show Cause: Correction

JULY 12, 1973.

In the Order to Show Cause, Requiring Resumption of Deliveries of Natural Gas, Setting Date for Formal Hearings, Prescribing Procedures and Granting Petitions to Intervene, issued July 12, 1973 and published in the FEDERAL REGISTER July 19, 38 FR 19250: Caption: Change docket number pertaining to Texas Eastern Transmission Corporation from "CI73-558" to "CP74-15". Paragraph 6, line 37: Add "in Docket No. CP74-15" after "show cause" Paragraph 6, line 52: Add "in Docket No. CI73-578," after "proceedings" Paragraph (B) line 2: Add "in Docket No. CP74-15" after "show cause" Paragraph (C), line 2: Add "in Docket No. CI73-578" after "proceedings".

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-21360 Filed 10-5-73;8:45 am]

[Docket No. E-7740]

INDIANA AND MICHIGAN ELECTRIC CO.

Order Rejecting Tariff Sheets Providing for Refunds, Denying Motion for Stay, and Accepting for Filing and Approving Revised Rate Schedules

SEPTEMBER 28, 1973.

Background. On June 13, 1972, Indiana and Michigan Electric Company (I&M) tendered for filing revised tariff sheets which reflect a proposed increase in its wholesale electric rates to, among others, the City of Auburn, Indiana (Auburn), Richmond Power and Light of the City of Richmond, Indiana (Richmond), and Anderson Power and Light of the City of Anderson, Indiana (Anderson). By order issued August 11, 1972, the Commission accepted the tariff sheets for filing, suspended the effective date for five months, until January 13, 1973, and ordered a hearing. Richmond and Anderson applied for rehearing of that order which the Commission denied by order issued October 5, 1972. As a result of a Petition for Review filed by Richmond and Anderson, the United States Court of Appeals for the District of Columbia Circuit reversed on May 25, 1973, the Commission's orders accepting I&M's filing as to Richmond and Anderson and remanded the case to the Commission with directions to reject I&M's filing as to Richmond and Anderson and secure refunds. *Richmond Power and Light of the City of Richmond, Indiana, et al. v. F.P.C.*, ____ F.2d ____ (CADC 1973). By order issued August 8, 1973, the Commission complied with the Court's directions.

Motion to dismiss. On June 18, 1973, Auburn filed a motion requesting the Commission to dismiss I&M's filing as to it and order refunds of all monies collected thereunder. In support of its motion, Auburn asserts that its service agreement with I&M contains the identical language contained in the contract between Richmond and I&M.[1]

On June 29, 1973, I&M filed an answer opposing Auburn's motion on grounds that the decision of the Court in *Richmond* is not a final ruling and if later reversed I&M would be irreparably injured; even if the decision is sustained, Auburn's motion contains no facts which support its request for relief; the Court's conclusion of law was based on numerous factual conclusions the existence of which, must be established as a prerequisite to the granting of Auburn's motion; I&M is entitled to present evidence at a hearing regarding the interpretation of its contract with Auburn, the denial of which would be prejudicial; and Commission approval of a settlement in Docket No. E-7273 confirms the intent of I&M and Auburn to sever any pre-existing relationship between I&M's municipal rates and its industrial rates.

On July 13, 1973, the Commission waived § 1.12(e) of its rules of practice

[1] The applicable provisions of the Richmond and Auburn contracts are contained in Appendix A filed as part of the original document.

and procedure and deferred ruling on Auburn's motion of June 18, 1973, pending further consideration. On August 31, 1973, Auburn filed a supplemental petition to intervene, protest and another request for rejection of I&M's rate schedule as to Auburn.

In *Richmond*, the Court held that the contract between I&M and Richmond (containing the same language as appears in I&M and Auburn's contract) barred I&M from unilaterally filing a rate change with this Commission which is higher than the Tariff I.P. rate on file with PSCI and that this Commission has no jurisdiction to change the rate except after determining through a proceeding under section 206 that the contract rate is unreasonable. Upon review, we find that I&M's contract with Auburn is identical to its contract with Richmond in all material respects. Thus, I&M is contractually barred from unilaterally filing an increase in rates to Auburn by any amount in excess of I&M's Tariff I.P. rate on file with PSCI. Accordingly, we shall reject I&M's rate increase filed on June 13, 1972, as it applies to Auburn and order refunds.

Proposed Rate Increase. On August 30, 1973, I&M tendered for filing in Docket No. E–7740 supplements to the rate schedules presently on file with the Commission with respect to Anderson, FPC Rate Schedule No. 27, and with respect to Richmond, FPC Rate Schedule No. 58. The proposed changes will increase I&M's revenues based on test year 1971 by approximately $380,000 annually from Anderson and by approximately $190,000 annually from Richmond.

In support of its filing, I&M states that the proposed changes incorporate the revisions in I&M's Tariff I.P. on file with, and approved by, PSCI and which became effective on March 29, 1972. Further, I&M states that this filing is made to effectuate the respective contractual obligations between I&M and the cities of Anderson and Richmond. In addition, I&M asserts that there is no bona fide dispute as to the reasonableness of the proposed increases in the record in Docket No. E–7740 to date.

By notice issued September 11, 1973, protests and petitions to intervene were invited to be filed by September 19, 1973. On September 19, 1973, the staff filed comments asserting that the proposed increase in rates to Richmond and Anderson filed on August 30, 1973, in this proceeding are fully justified from a cost-of-service standpoint.

On September 19, 1973, Anderson filed a petition to intervene, protest and a request for rejection of the proposed rates filed on August 30, 1973, or in the alternative, a request for suspension and a hearing. Anderson asserts that I&M's August 30, 1973, tender and its request for a retroactive effective date is unlawful per se under section 205 of the Act; good cause does not exist to grant I&M's requested waiver of § 35.3 of the Commission's regulations; I&M's failure to file cost of service data ignores the 60 day requirement of § 35.13 of the Commission regulations; I&M's filing is in violation of Anderson's contract and Indiana law which make no provision for retroactive rate changes; the only proper effective date for any increase in rates is March 31, 1974, in accordance with the provisions of section 205(e) of the Act; and assuming arguendo, that the proposed filing does not violate its contract, the maximum suspension allowable is required to unravel the complex state of these proceedings.

On September 19, 1973, Richmond filed a protest and "if necessary" a petition to intervene. In addition, Richmond requests the Commission reject the rate schedules tendered on August 30, 1973, or in the alternative, acceptance of the filing be conditioned upon I&M (1) making payment of all refunds due Richmond, (2) filing a change in contract capacity and maintenance power provisions or otherwise provide for interconnected operations, and (3) filing a proper fuel adjustment clause. Moreover, Richmond requests that if the August 30, 1973, tender is accepted for filing the Commission suspend its effective date for one day if the requested conditions are imposed and if not, then for five months and order a hearing.

Since Richmond and Anderson are already parties to the proceeding in Docket No. E–7740, their petitions for intervention in the proceeding arising from I&M's August 30, 1973, filing are unnecessary.

The proposed rates tendered on August 30, 1973, by I&M are identical to the rates contained in the Tariff I.P. schedules on file and approved by PSCI. Richmond and Anderson's rate schedules on file and approved by this Commission require them to pay for their service from I&M at the rates contained in Tariff I.P. No party has filed evidence in Docket No. E–7740 which would indicate that I&M is entitled to less than the rates proposed herein. Our review of I&M's August 30, 1973, filing, the evidence filed in Docket No. E–7740, and the pleadings indicate that I&M's proposed changes in FPC Rate Schedule Nos. 27 and 58 should be accepted for filing and approved without further proceedings.

Since our review of I&M's proposed fuel clause filed on August 30, 1973, indicates that it does not conform with *New England Power Company*, Docket No. E–7541, Opinion No. 633, we shall condition our approval upon I&M's filing a revised fuel clause in conformance with Opinion No. 633. With respect to Richmond's request that acceptance be conditioned upon refunds, we have already ordered refunds by order issued August 8, 1973, and I&M remains subject to the requirements of that order. Finally, since we have set the interconnection issue for hearing in Docket No. E–7740, in which Richmond is participating, Richmond's request that acceptance be conditioned upon interconnection is unnecessary.

I&M requests that its new filing be made effective on March 29, 1972, or upon the first next succeeding date on which these supplements may be made effective under law, statute or rule. In support of its requested effective date, I&M asserts that it is necessary, in the public interest, and in the interest of I&M's other municipal wholesale customers. Further, I&M avers that it is necessary to effectuate the express contractual obligations of Anderson and Richmond and to avoid an unjustified windfall for those cities.

Under section 205 of the Act, any public utility, including I&M, may unilaterally file for a change of rates consistent with its contractual obligation. I&M first exercised this right on August 30, 1973, as to Anderson and Richmond. While I&M had the right to file for a rate increase to be effective March 29, 1972, it made no such filing. Moreover, this Commission lacks the authority under section 205 of the Act as interpreted by the courts to award reparations. Accordingly, we shall permit the rate increases to Anderson and Richmond filed on August 30, 1973, to become effective without suspension September 30, 1973, thirty days after filing, and without further proceedings.

I&M also requests that the Commission waive the requirements of §§ 35.0, 35.3, 35.11 and 35.13 of the Commission's regulations to the extent that they are inconsistent with this tendered filing. While we will deny the requested waiver of §§ 35.3 and 35.11, consistent with our decision above, we will grant waiver of § 35.13 which requires cost of service data be filed, since I&M refers to and relies upon the data submitted in support of its June 13, 1972, submittal to support this new filing.

I&M has not submitted a filing fee as required by § 35.0, and maintains that the portion of fee it paid when tendering its June 13, 1972, filing applicable to Richmond and Anderson covers the proposed August 30, 1973, rate increases to Richmond and Anderson. We agree with I&M and accordingly, we will waive § 35.0 of our regulations.

Motion for stay. On August 30, 1973, by separate filing, I&M requests the Commission to stay ordering paragraph (B) of the Commission's order issued August 8, 1973, which required I&M to refund to Richmond and Anderson the incremental amounts collected since January 13, 1973, with interest at seven percent per annum. I&M requests the stay pending our decision with respect to I&M's new filing on August 30, 1973. On September 10, 1973, Richmond filed an answer requesting the motion for stay be denied.

Good cause has not been shown to grant I&M's motion to stay. Accordingly, I&M is required to refund the incremental amounts collected since January 13, 1973, to Anderson and Richmond pursuant to our order issued August 8, 1973, in compliance with the Court's mandate.

The Commission finds

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission accept

I&M's proposed rate increases as to Richmond and Anderson tendered August 30, 1973, for filing, and to approve and make effective such increases September 30, 1973, without further proceedings as hereinafter ordered.

(2) Good cause has not been shown to waive §§ 35.3 and 35.11 of the Commission's regulations.

(3) Good cause has been shown to waive § 35.13 of our regulations since I&M incorporates by reference its cost of service data filed on June 13, 1972, in Docket No. E–7740.

(4) Good cause has been shown to waive § 35.0 of our regulations since the filing fee has been previously remitted.

The Commission orders

(A) Auburn's subject motion to dismiss is hereby granted.

(B) I&M's proposed tariff sheets filed on June 13, 1972, in this docket are hereby rejected as to Auburn.

(C) I&M shall refund to Auburn the incremental amounts collected since January 13, 1973, the date the proposed tariff sheets filed on June 13, 1972, became effective, with interest at seven percent per annum.

(D) I&M's request for waiver of §§ 35.3 and 35.11 of our regulations is hereby denied.

(E) I&M's request for waiver of §§ 35.0 and 35.13 of our regulations is hereby granted.

(F) I&M's proposed revised Rate Schedule Nos. 27 and 58 tendered for filing on August 30, 1973, are hereby accepted for filing, approved and made effective September 30, 1973 without further proceedings. I&M shall file a revised fuel clause in conformance with *New England Power Company*, Docket No. E–7541, Opinion No. 633 within 60 days from the date of issuance of this order.

(G) Richmond's motion to reject or, in the alternative, request for acceptance subject to conditions of interconnection and refund, and its requests for suspension and hearing, filed on September 19, 1973, are denied for the reasons heretofore stated.

(H) Anderson's request for rejection or in the alternative, its request for suspension and a hearing, filed on September 19, 1973, is hereby denied for the reasons heretofore stated.

(I) I&M's motion for stay filed on August 30, 1973, is hereby denied.

(J) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73–21378 Filed 10–5–73;8:45 am]

[Docket No. DA–1029–Calif. Bureau of Land Management]

LAND WITHDRAWN IN PROJECT NO. 1764

Order Vacating Land Withdrawal

OCTOBER 1, 1973.

The Bureau of Land Management, United States Department of the Interior, has requested that the land withdrawal for Project No. 1764 be vacated in its entirety, thereby requiring Commission consideration under section 24 of the Federal Power Act.

Portions, totaling about 8.5 acres, of the following described sections are withdrawn pursuant to the filing on September 23, 1940, of an application for license for Project No. 1764.

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 18 S., R. 41 E., secs. 25, 26, 34, 35[1]
T. 18 S., R. 42 E., sec. 30

Portions of sec. 36, T. 18 S., R. 41 E., were also withdrawn pursuant to the filing for Project No. 1764, however, the withdrawal was vacated as to sec. 36 by Commission order issued December 16, 1957.

The lands lie along Darwin Wash at the northwest edge of the arid Panamint Valley, a few miles from the west boundary of Death Valley National Monument.

Project No. 1764 consisted of a diversion structure, 4.5 miles of pipeline ranging from 3.5 to 5 inches in diameter), a powerhouse with an installed capacity of about 13 horsepower, and a short power line.

The primary purpose of the pipeline has been to supply water for domestic use at a resort. Hydroelectric operations were discontinued in 1965 and the license for the project expired on March 26, 1973. The resort now obtains electric power from a diesel generator.

The diversion structure and that part of the pipeline located on Federal lands are now authorized by Department of the Interior right-of-way Los Angeles 089397 (Sacramento-031517). This right-of-way was issued on November 4, 1939 (prior to the issuance of the license) and is still in effect. The electric generating and transmission facilities of the project were located on private lands.

The Commission finds

The land withdrawal for Project No. 1764 serves no useful purpose and should be vacated in its entirety.

The Commission orders

The withdrawal pursuant to the application for Project No. 1764 is hereby vacated in its entirety.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73–21366 Filed 10–5–73;8:45 am]

[Docket No. E–8394]

METROPOLITAN EDISON CO.

Notice of Proposed Changes in Rates and Charges

SEPTEMBER 28, 1973.

Notice is hereby given that on September 10, 1973, Metropolitan Edison Company (Met-Ed) tendered for filing with the Federal Power Commission a rate schedule for wheeling and supplemental service to Allegheny Electric Cooperative (Allegheny). The proposed rate schedule would replace one which expires on November 9, 1973, as part of a contract which is dated July 22, 1965. Met-Ed requests that the tendered rate schedule be allowed to become effective without suspension on November 10, 1973 so that it may immediately replace the present contract upon its expiration.

Using calendar 1972 as a test year Met-Ed alleges that its data indicates the new schedule would yield a return of 7.28 percent on the wheeling rate and 7.42 percent on the rate for supplemental service. Annual revenues would be increased by $356,018.

Met-Ed alleges that the tendered rates schedule follows in principle and form a proposed contract for wheeling and supplemental service between Penelec and Allegheny pending before the Commission for approval as part of a proposed settlement agreement in Docket No. E–7718. Met-Ed list as principal features paralleling those in the proposed contract in Docket No. E–7718 the following:

(1) The rate for supplemental service in the tendered rate schedule is an unblocked demand and energy rate.

(2) The proposed rate changes the existing contract by adding a fuel clause, eliminating the minimum bill provision, and modifying the power factor adjustment clause.

(3) The wheeling rate in the proposed contract is $1.62 per Kilowatt.

(4) The tendered rate schedule provides for an increase from 100,000 KW to 130,000 KW of the amount of PASNY power that Met-Ed will wheel for Allegheny by joint arrangement with Penelec should Allegheny's request for such an allotment be honored.

(5) The tendered rate schedule contains a provision that Met-Ed may change the rates contained therein by notice in writing to Allegheny and by making the appropriate filing with the Federal Power Commission (or such regulatory agency as may have jurisdiction), except that such change may not become effective prior to May 10, 1975. The tendered rate schedule would be effective through May 9, 1975, and thereafter until terminated by either party giving to the other not less than 12 months' written notice (given either before or after expiration of the initial term).

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73–21379 Filed 10–5–73;8:45 am]

[1] Section 35 was inadvertently omitted from the Commission's March 31, 1942, notice of land withdrawal for the project.

[Docket No. CP73-45]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Tariff Filing Pursuant to Order Issuing Certificate of Public Convenience and Necessity

OCTOBER 1, 1973.

Take notice that on September 13, 1973, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing Original Sheet Nos. 355 through 363 designated as Rate Schedule X-38 to its F.P.C. Gas Tariff, First Revised Volume No. 2 to be effective October 17, 1973.

Michigan Wisconsin states that this filing is made to reflect authorization for the exchange of natural gas with Southern Natural Gas Company (Southern Natural), pursuant to Commission order issued August 29, 1973, in Docket No. CP73-45.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 12, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21400 Filed 10-5-73;8:45 am]

[Docket No. CP71-310, etc.]

MOUNTAIN GAS CO. ET AL.

Notice of Offer of Settlement

SEPTEMBER 26, 1973.

Mountain Gas Co., Appalachian Exploration & Development, Inc., Cabot Corporation, Docket Nos. CP71-310, CI71-899, CI71-904, CI71-897, CI71-898, CI71-902, CI71-903.

Take notice that Cabot Corporation (Cabot) and its affiliates, Mountain Gas Co. (Mountain) and Appalachian Exploration & Development, Inc. (Appalachian), applicants herein, filed an offer of settlement in the above-styled dockets with the Commission on August 15, 1973.

Applicant's offer of settlement consists of the following proposals:

(1) Mountain will acquire Cabot's gas transmission facilities.

(2) Appalachian will acquire Cabot's gas leases in West Virginia. The production from these transferred leases will be committed by Appalachian to Mountain.

(3) Cabot will retain its gas distribution properties in West Virginia.

(4) Appalachian will undertake a three year natural gas exploration and development program on the gas leases it will acquire from Cabot. Appalachian will drill or cause to be drilled 90 new wells. The total new reserve which Appalachian will develop under the drilling program is contractually committed to Mountain.

(5) Appalachian will charge Mountain 60 cents per Mcf for gas produced from wells spudded between January 1, 1973, and December 31, 1975. Appalachian will charge Mountain 30 cents per Mcf for gas produced from wells drilled prior to October 8, 1969. Appalachian will charge Mountain 32 cents per Mcf for gas produced from wells drilled between October 7, 1969, and January 1, 1973.

(6) Upon approval of this settlement offer, Mountain will file a Purchased Gas Adjustment clause to reflect the above-described increases in purchased gas costs.

Comments on applicants' offer of settlement may be filed with the Commission within thirty days of the date of issuance of this notice.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21367 Filed 10-5-73;8:45 am]

[Docket Nos. CI73-478, CI73-509]

NI-GAS SUPPLY, INC.

Notice of Amendments to Applications

OCTOBER 2, 1973.

Take notice that on September 17, 1973, NI-Gas Supply, Inc. (Applicant), P.O. Box 190, Aurora, Illinois 60507, filed in Docket Nos. CI73-478 and CI73-509 amendments to its applications pending in said dockets requesting certificates of public convenience and necessity authorizing the sales of natural gas and requesting declaratory orders pertaining to said sales, all as more fully set forth in the amendments to the applications which are on file with the Commission and open to public inspection.

Under the original applications, Applicant sought authorization to sell natural gas to Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), and to Northern Illinois Gas Company (Northern Illinois), and declaratory orders that the subject sales would not be sales under the Applicant's small producer certificate issued in Docket No. CS69-29. Applicant stated that under the terms of a gas transportation agreement dated October 27, 1972, between Applicant, Tennessee, and Midwestern Gas Transmission Company (Midwestern), Applicant agreed to sell to Tennessee up to 33⅓ percent of the total daily volume Applicant receives and purchases from Mobil Oil Corporation, under a gas purchase and sale agreement dated November 4, 1971. Applicant further requested approval to sell volumes of said gas remaining to Northern Illinois with transportation being furnished by Tennessee and Midwestern.

The instant amendments change the deadline for the completion of facilities by Tennessee and Midwestern required to perform firm transportation service related to the proposed sales from November 1, 1973, to November 1, 1974. Applicant states that the terms of the proposed sale, with regard to volumes of gas to be sold to Tennessee and correspondingly those volumes of gas remaining to be sold to Northern Illinois are modified by a letter amendment dated February 23, 1973, wherein Applicant has agreed to sell to Tennessee, and Tennessee has agreed to purchase 33⅓ percent of the total daily volume that Applicant receives and purchases from Mobil under the gas purchase contract dated November 4, 1971, rather than varying volumes up to 33⅓ percent of total daily volume.

Any person desiring to be heard or to make any protest with reference to said amendments should on or before October 26, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed protests and petitions to intervene need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21385 Filed 10-5-73;8:45 am]

[Docket No. CP74-70]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

OCTOBER 1, 1973.

Take notice that on September 14, 1973, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP74-70 an application pursuant to section 7 of the Natural Gas Act and § 157.7(g) of the regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval for the abandonment, for a twelve-month period commencing October 1, 1973, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which will not result in changing Applicant's system salable capacity or service from that authorized prior to filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment will not exceed $3,000,000, nor

will the cost of any single project exceed $500,000. Applicant states that the proposed facilities will be financed from available funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21382 Filed 10-5-73;8:45 am]

[Docket No. CP74-71]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

SEPTEMBER 27, 1973.

Take notice that on September 14, 1973, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP74-71 an application pursuant to section 7(c) of the Natural Gas Act and section 157.7(b) of the Regulations thereunder for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1974, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system additional supplies of natural gas in areas generally co-extensive with said system.

The application states that the total cost of all facilities will not exceed $7,000,000, with no single onshore project to exceed a cost of $1,000,000; and with no single offshore project to exceed a cost of $1,750,000. Applicant states that the proposed facilities will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21384 Filed 10-5-73;8:45 am]

[Docket No. RP73-8]

NORTH PENN GAS CO.

Notice of Proposed Changes in Rates and Charges

SEPTEMBER 28, 1973.

Take notice that on September 10, 1973, North Penn Gas Company (North Penn) tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, which would increase rates by 0.836¢ per Mcf (approximately $245,000 per annum based on sales for the 12 month period ended July 31, 1973). North Penn requests waiver of the 45-day notice provision of the Purchased Gas Adjustment Clause of its tariff and any provisions of the Commission's rules and regulations as may be required to permit said changes to become effective as of October 1, 1973.

The Company states the adjustment in rates results from increases previously filed by its suppliers Consolidated Gas Supply Corporation, on July 24th and August 27th, 1973, and Transcontinental Gas Pipe Line Corporation, on May 31st and August 15th, 1973. Two of such increases are to become effective as of October 1, 1973. The remaining two became effective as of July 1st and August 1st, 1973.

Copies of the filing have been served upon North Penn's customers and interested state commissions.

Any person desiring to be heard or to protest said increase in rate should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 15, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; however, no petition to intervene is required to be filed by persons previously permitted to intervene in this proceeding. Copies of the application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21381 Filed 10-5-73;8:45 am]

[Docket No. CP73-111]

NORTHERN NATURAL GAS CO.

Notice of Petition

SEPTEMBER 27, 1973.

Take notice that on September 11, 1973, Northern Natural Gas Company (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP73-111 a petition to amend the order of the Commission issued in said docket on January 17, 1973 (49 FPC ——), pursuant to section 7(c) of the Natural Gas Act and § 157.7(c) of the Regulations thereunder, to waive the 100,000 Mcf annual limitation on deliveries to any single utility customer, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued January 17, 1973, a budget-type certificate of public convenience and necessity was issued authorizing, among other things, the construction, during the calendar year 1973, and operation of certain natural gas facilities for the sale of natural gas to existing distributor customers, including Petitioner's People Division, for resale.

Delivery of gas was authorized within the limits of previously authorized contract demand volumes of Petitioner's customers. Service was to be limited to resales to "small volume" consumers and subject to a 100,000 Mcf annual limitation per utility customer. The aggregate delivery volume totals to all customers was not to exceed 1,000,000 Mcf per year.

Petitioner states that through August 7, 1973, Petitioner has established 70 new delivery stations at the request of certain of its utility customers under the budget-type certificate. The petition states that 63 of these facilities were installed to deliver natural gas volumes to Petitioner's Peoples Division and that the associated sales have reached the 100,000 Mcf limitation. The remaining seven delivery stations were established at the request of four other utility customers. All facilities are stated as serving the needs of high-priority small volume gas users, a large proportion of which are right-of-way grantors of Petitioner who require gas for use in agricultural irrigation, crop drying and commercial heating.

Petitioner estimates that based on requests for service presently pending and the anticipated additional requests during the balance of 1973, its Peoples Division will require approximately 190 total additional delivery stations with total annual requirements of 300,000 Mcf. Petitioner further estimates that its other utility customers will require budget-type projects with total annual volume requirements of 150,000 Mcf. Accordingly, Petitioner requests that the 100,000 Mcf annual limitation per customer be waived.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 23, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21383 Filed 10-5-73;8:45 am]

[Docket Nos. E-7737, E-7739]

ORANGE & ROCKLAND UTILITIES, INC. ROCKLAND ELECTRIC CO.

Order Approving Settlement Agreement and Granting Intervention

SEPTEMBER 28, 1973.

On June 2, 1972, and October 6, 1972,[1] Orange & Rockland Utilities, Inc. (O&R) filed proposed amendments to its service agreements with its wholly owned subsidiaries Rockland Electric Company (Rockland) and Pike County Light & Power Company (Pike). The proposed amendments purported to increase the specified rate of return in the agreements from 7.5 percent to 9 percent and added to O&R's plant investment allocable to Rockland and Pike a portion of O&R's construction work in progress.

Also on June 2, 1972, Rockland filed revised charges for wholesale service to its full requirements customer, Borough of Park Ridge, New Jersey (Park Ridge).[2] The proposed changes specified a demand charge of $3.00 per Kw per month plus energy charges of 0.93c per Kwh for the first 250 Kwh per Kw demand and 0.70c per Kwh for the excess. This proposal would raise the billing demand ratchet from 50 percent to 80 percent of the maximum billing demand of the preceding eleven months. Also, the proposal added a "purchased power adjustment" clause which provides that for each 0.001c per Kwh change above or below $2.84 per Kw, Rockland's energy or demand charges to Park Ridge will be increased, respectively by an equivalent amount. On July 31, 1972, Rockland's filing was accepted for filing and suspended for five months until January 1, 1973.

In an order issued November 3, 1972, we accepted O&R's amended filing and suspended the proposed rate for five months until April 6, 1973, and consolidated for hearing the common issues of the O&R and Rockland proceedings.

On March 1, 1973, Rockland filed a proposed settlement agreement in Docket No. E-7739 to the cost of service rate which is the subject of the proceeding between it and Park Ridge. The provisions of the settlement as supported by a revised rate design (see Appendix A) are as follows:

(1) Settlement rates in the settlement tariff will yield $99,970 in revenue based on a 1971 test year.

(2) Rockland will eliminate the proposed purchased power adjustment clause.

(3) The ratchet will be increased from 50 percent to 80 percent.

(4) The demand charge will be lowered from the proposed $3.00 to $2.72.

(5) Rockland agrees not to apply for a rate increase that would be effective prior to January 1, 1974.

(6) The revised tariff is to be effective January 1, 1973.

On March 9, 1973, Park Ridge filed a statement in support of the settlement agreement and indicated that said settlement had been approved by a resolution of the Board of Public Works in the Borough of Park Ridge. Park Ridge points out that the settlement would result in estimated annual savings of $56,000.

On March 23, 1973, the Staff filed a statement in support of the proposed settlement.

On March 20, 1973, O&R filed superseding amendments to its service agreements with Rockland and Pike which reduced the 9 percent rate of return originally proposed to 8.3 percent and eliminated plant under construction from rate base. By an order issued April 6, 1973, the Commission accepted these amendments to be effective April 6, 1973, the date the five-month suspension terminated. Subsequent to settlement conferences with Staff, O&R further modified its service agreements which it incorporated into a settlement agreement filed on April 17, 1973. Notice of this agreement was issued on May 8, 1973, and no response was received.

The principle provisions of O&R's proposed settlement as supported by a revised rate design Appendix B are summarized as follows:

(1) Rate of return is reduced from the proposed 9 percent to 8.3 percent.

(2) Plant under construction is eliminated from rate base.

(3) Inclusion of a clause for determination of billing Federal Income tax expense associated with service being supplied.

(4) Inclusion of a provision to reflect working capital in the net investment devoted to providing service to Rockland and Pike.

The proposed settlement in the O&R proceeding reduces the rate increase as to Rockland from $752,000 to $558,000 and to Pike from $15,000 to $11,000. The Rockland settlement reduces the rate increase to Park Ridge from $120,000 to $99,970.

On March 15, 1973, the Board of Public Utility Commissions filed a late Notice of Intervention which we will grant in this order.

Our review of the settlements filed by Rockland and O&R and the respective cost support data shown in Appendices A and B respectively indicates that the rates under each settlement agreement are not excessive. The public interest will be served by our approval of each settlement agreement.

The Commission finds

The settlement of these two proceedings on the basis of the agreement filed by Rockland on March 1, 1973, and by O&R on April 17, 1973, is reasonable and proper in the public interest in carrying out the provisions of the Federal Power Act and should be approved and made effective as provided in this order.

The Commission orders

(A) The settlement agreement filed by Rockland in Docket No. E-7739 is incorporated by reference, is approved and made effective, subject to the terms and conditions of this order as of January 1, 1973.

(B) The settlement agreement filed by O&R in Docket No. E-7737, is incorporated by reference, is approved and made

[1] O&R's tendered filing of June 2, 1972, was deficient, as described in a Commission deficiency letter mailed on June 28, 1972. On October 6, 1972, O&R cured the deficiency with an amended filing.

[2] Rockland Electric Company, Supplement No. 1 to Rate Schedule FPC No. 6.

effective subject to the terms and conditions of this order as of April 6, 1973.

(C) Within 30 days Rockland and O&R respectively shall file rate schedules reflecting the settlement rates approved by this order.

(D) O&R and Rockland respectively shall refund, with interest at 7 percent per annum, amounts collected in excess of the settlement rates approved by this order.

(E) The Notice of Intervention of the Board of Public Utility Commissions is granted.

(F) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

ROCKLAND ELECTRIC—DOCKET NO. E-7739

Test period year ended December 31, 1971	*Wholesale for resale service Park Ridge*
Proposed revenue	$419,237
Present revenue	319,267
Proposed increase	99,970
Percent increase	31.31
Results at proposed rates:	
Cost of service at 8.3 percent rate of return	425,349
Excess revenue (deficiency)	(6,112)
rate of return	$425,349
cent)	7.31

APPENDIX B

ORANGE AND ROCKLAND—DOCKET NO. E-7737

Test period year ended Feb. 29, 1972	Wholesale for resale services Rockland	Pike	Total
Settlement cost of service revenue[1]	$9,453,130	$228,148	$9,681,278
Present revenue	$8,895,319	$217,148	$9,112,467
Proposed increase	$557,811	$11,000	$568,811
Percent increase	6.27	5.07	6.24
Results at settlement rates rate of return earned (percent)	8.3	8.3	8.3

[1] Revenue billing is based on cost of service under the O&R rate form.

[FR Doc.73-21185 Filed 10-5-73;8:45 am]

[Docket No. F-7777]

PACIFIC GAS AND ELECTRIC CO.

Notice of Further Extension of Time and Postponement of Hearing

SEPTEMBER 28, 1973.

On September 25, 1973, The Cities of Alameda, Healdsburg, Lodi, Lompoc, Santa Clara and Ukiah, California filed a motion for a further extension of the procedural dates. The motion states that none of the parties represented at the prehearing conference on September 25, 1973, objects to this request.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Intervenor Service Date, October 30, 1973.
Company Rebuttal Service Date, November 13, 1973.
Hearing Date, December 4, 1973, 10:00 a.m., P.s.t.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-21359 Filed 10-5-73;8:45 am]

[Docket No. RI74-29]

PANHANDLE PRODUCING COMPANY, ET AL.

Notice of Petition for Special Relief From Area Rate

OCTOBER 1, 1973.

Take notice that on August 21, 1973, Panhandle Producing Company, et al. (Petitioners), P.O. Box 189, Amarillo, Texas 79105, filed a petition for special relief in Docket No. RI74-29, pursuant to Opinion No. 586 (Hugoton-Anadarko Area) in Docket Nos. AR64-1, et al.[1] Petitioners request that they be authorized to dedicate 34,784,178 Mcf in previously undedicated new gas reserves to the interstate market to discharge $347,841.78 in refunds and Petitioners state that they are willing to use the remainder of the refundable monies ($117,680.65 principal plus $53,061.00 interest to September 1, 1970, and interest accrued subsequent to that date for exploration and development of gas reserves for commitment to the interstate market.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 19, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-21386 Filed 10-5-73;8:45 am]

[Docket No. CI74-160]

PAYNE PRODUCING CO.

Notice of Application

OCTOBER 2, 1973.

Take notice that on August 31, 1973, Payne Producing Company (Applicant), P.O. Box 60005, Corpus Christi, Texas 78406, filed in Docket No. CI74-160 an application, as amended September 13, 1973, for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Company from the North La Rosa Field, Refugio County, Texas, all as more fully set forth in the application, as amended, which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on July 10, 1973, within the contemplation of section 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29) and requests authorization to sell gas for an additional sixty days after the initial sixty-day emergency period and proposes to continue said sale within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70) for one year from July 10, 1973. The contract for the subject sale provides for the continuation of said sale for one year from the end of the emergency period. Applicant proposes to sell approximately 30,000 Mcf of gas per month at 50.0 cents per Mcf at 14.65 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-21387 Filed 10-5-73;8:45 am]

[1] 44 FPC 761, 791; 18 CFR 154.106(H).

[Docket No. RP73-92]

RATON NATURAL GAS COMPANY

Notice of Rate Change Under PGA-1

SEPTEMBER 28, 1973.

Take notice that Raton Natural Gas Company (Raton), on September 6, 1973, tendered for filing a Substitute Second Revised Sheet No. 3a.

Raton states that on August 16, 1971, Raton filed with the Commission, as a part of Raton's FPC Gas Tariff, Original Volume No. 1, Second Revised Sheet No. 3a and First Revised Sheet No. 206. Raton states that the purpose of effecting a change in Raton's rates to compensate Raton for the increase in charges for gas purchased from Colorado Interstate Gas Company (Colorado) for resale to Raton's only jurisdictional customer and to pass through reduction in charges by Colorado as a result of the settlement in Docket No. RP72-113 by order of the Commission issued July 5, 1973.

According to Raton the Substitute Second Revised Sheet No. 3a and the Substitute Exhibit A is submitted in substitution for the same instruments filed on August 16, 1973. Raton requests that the Commission accept this filing as though filed on August 16, 1973.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 15, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Parties who have previously filed protests or petitions to intervene need not file new protests or petitions relating only to this notice. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21388 Filed 10-5-73;8:45 am]

[Docket No. RP74-13]

SOUTHERN NATURAL GAS CO.

Notice of Proposed Changes in FPC Gas Tariff

SEPTEMBER 26, 1973.

Take notice that Southern Natural Gas Company, on August 31, 1973, tendered for filing proposed changes in Rate Schedule F-4 of its FPC Gas Tariff, Original Volume No. 3. The proposed changes would increase revenues from off-system field sales by $835 based on an estimated sales volume for the twelve-month period succeeding the proposed effective date of October 1, 1973.

Southern states the present filing is being made pursuant to § 154.105(A)(c)(3) to reflect the upward adjustment in Southern Louisiana Area rates on October 1, 1973, for gas sold under contracts dated prior to October 1, 1968.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 18, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21389 Filed 10-5-73;8:45 am]

[Docket No. RP74-17]

SOUTHERN NATURAL GAS CO.

Notice of Proposed Changes in FPC Gas Tariff

SEPTEMBER 26, 1973.

Take notice that Southern Natural Gas Company, on August 31, 1973, tendered for filing proposed changes in Rate Schedule F-1 of its FPC Gas Tariff, Original Volume No. 3. The proposed changes would increase revenues from off-system field sales by $2,800 based on an estimated sales volume for the twelve-month period succeeding the proposed effective date of October 1, 1973.

Southern states the present filing is being made pursuant to § 154.109a(c)(1) to reflect the upward adjustment in Other Southwest Area rates on October 1, 1973, for gas sold under contracts dated prior to October 1, 1968.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 18, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21390 Filed 10-5-73;8:45 am]

SOUTHERN NATURAL GAS CO.

[Docket No. RP74-16]

Notice of Proposed Changes in FPC Gas Tariff

SEPTEMBER 26, 1973.

Take notice that Southern Natural Gas Company on August 31, 1973, tendered for filing proposed changes in Rate Schedule F-5 of its FPC Gas Tariff, Original Volume No. 3. The proposed changes would increase revenues from off-system field sales by $12,201 based on an estimated sales volume for the twelve-month period succeeding the proposed effective date of October 1, 1973.

Southern states the present filing reflects a rate increase in accordance with Article IX of the subject rate schedule up to the level allowed by Commission Opinion No. 662 in Docket No. AR70-1 (Phase I) issued August 7, 1973.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 18, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21391 Filed 10-5-73;8:45 am]

SOUTHERN NATURAL GAS CO.

Notice of Proposed Changes in FPC Gas Tariff

OCTOBER 1, 1973.

Take notice that Southern Natural Gas Company (Southern) on September 10, 1973, tendered for filing Rate Schedule X-24 containing original tariff sheets to its FPC Gas Tariff, Original Volume No. 2 to become effective on September 1, 1973.

Southern states that the Rate Schedule X-24 tariff sheets are issued pursuant to the Commission's order dated August 29, 1973, in Michigan Wisconsin Pipe Line Company, et al., Docket No. CP73-45, et al., and § 154.62 of the Commission's Regulations under the Natural Gas Act.

Copies of this filing were mailed to all interested customers and state commissions and are on file with the Commission and are available for public inspection.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1973. Protests will be considered by the Commission in determining an appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21399 Filed 10-5-73;8:45 am]

[Docket No. RP74-24]

TENNESSEE GAS PIPELINE CO.

Notice of Filing of Proposed Plan for Curtailment of Deliveries

OCTOBER 2, 1973.

Take notice that on September 28, 1973, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing proposed changes to Ninth Revised Volume No. 1 of its FPC Gas Tariff, consisting of the following tariff sheets:

Original Sheet Nos. 213E, 213F, 213G, 213H, 213I, 213J and 213K
First Revised Sheet Nos. 12A, 12B, 209 and 213D

Tennessee states that the sole purpose of such revised tariff sheets is to include a gas curtailment provision in the General Terms and Conditions of Tennessee's tariff and to make necessary and conforming changes in related tariff provisions. Tennessee further states that the proposed gas curtailment provision is being filed pursuant to the Commission's Order No. 431 in Docket No. R-418 and pursuant to and in conformity with the Commission's Order No. 467-B in Docket No. R-469, as modified as to priority-of-service category (2) by the Commission's Opinion No. 647-A.

Tennessee requests that the filing be made effective on the proposed effective date of October 31, 1973, without suspension; however, should the Commission suspend such tariff sheets, Tennessee requests that the suspension be limited to a period of one day.

Tennessee indicates that the filing of a gas curtailment program has been made necessary by the critical nation-wide gas shortage and the abnormally high reductions in Tennessee's gas supply resulting from "freeze-offs" of producers' facilities during unusually cold Gulf Coast weather in its supply areas as well as producer work-overs and other supplier operational factors. In addition, Tennessee states that the new 1974 estimated requirements of its G and GS customers exceed the capacity to be provided by the additional facilities certificated by the Commission in Docket No. CP73-115 and currently under construction. Tennessee states that because of the foregoing factors it is faced with the definite possibility of having to reduce deliveries to its customers for the period beginning November 1, 1973.

Tennessee's filing includes provision for an overrun penalty of $10.00 per Mcf for volumes taken in excess of curtailment volumes under the curtailment plan. The filing also eliminates the demand charge waiver for curtailment under affected transportation service and for the inclusion of demand and deliverability charge credits for curtailment in a new deferred account and for the recovery of the balance in such deferred account by semiannual commodity rate adjustments.

Tennessee states that copies of its filing have been mailed to all of its affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before October 19, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21392 Filed 10-5-73;8:45 am]

[Docket No. RP72-64]

TEXAS GAS TRANSMISSION CORP.

Notice of Petition for Extraordinary Relief

SEPTEMBER 27, 1973.

Take notice that on September 18, 1973, the City of Hamilton, Ohio, filed a petition for extraordinary relief, requesting that the Commission allow it to overrun without penalty its 1973 Summer Season Quantity Entitlement from Texas Gas Transmission Corporation (Texas Gas), as set forth in Texas Gas' currently effective FPC Gas Tariff, by up to 250,000 Mcf, and to reduce its 1973-74 Winter Season Entitlement from Texas Gas by an equivalent amount.

The City of Hamilton avers that because of the unavailability of sufficient No. 2 diesel fuel oil or alternate fuels this year for Hamilton's power plant and notwithstanding its curtailment of all possible large industrial sales, it will overrun its summer season entitlement from Texas Gas. Hamilton believes that the prevailing circumstances justify its invoking the force majeure provisions of Texas Gas tariff to permit the requested quantity entitlement transfer, and states that its request for extraordinary relief is made without prejudice to that position.

Unless Hamilton can exceed its 1973 summer volumetric limitation by approximately 250,000 Mcf without payment of approximately $1,250,000 in applicable penalty charges, it claims that it must curtail electric service to its customers with the accompanying hardship that such curtailment would produce. No increase in its total entitlement from Texas Gas is requested for the 12-month period commencing April 1, 1973.

Texas Gas had advised that it does not contemplate curtailing present Quantity Entitlements prior to the end of the 1973-74 winter season, and that a grant of Hamilton's petition will not affect entitlements of other Texas Gas customers.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said application, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) on or before October 5, 1973. The notices and petitions for intervention previously filed in this proceeding will not operate to make these parties interveners or protestants with respect to the instant filing. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21402 Filed 10-5-73;8:45 am]

[Docket No. E-7929]

TOLEDO EDISON CO.

Notice of Extension of Time

SEPTEMBER 28, 1973.

On September 6, 1973, a notice was issued in the above-designated matter extending the procedural dates. It now appears that calendar conflicts in the Office of Administrative Law Judges require that the prehearing conference and the hearing be postponed.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Company Rebuttal, October 19, 1973.
Prehearing Conference, October 30, 1973, 10:00 a.m., e.s.t.
Hearing, November 26, 1973, 10:00 a.m., e.s.t.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21393 Filed 10-5-73;8:45 am]

[Docket No. RP74-20]

UNITED GAS PIPE LINE CO.

Notice of Proposed Changes in Rates and Charges

OCTOBER 2, 1973.

Take notice that United Gas Pipe Line Company (United), on September 21, 1973, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by $28,372,486, excluding gas cost, based on the 12 month period ending June 30, 1973, as adjusted. The proposed effective date of the increased rates and charges is November 6, 1973.

United states that the principal reasons for the proposed rate increase are (1) increased working capital requirements, (2) the need for an increased rate of return of 10.25 percent and (3) increased taxes, including income taxes associated with the increased return.

Other changes proposed by United in the Tariff include modification in method of determination of billing demand in Rate Schedules PL-C, PL-J, DG-N, and DG-S, deletion of provision in PL schedules relating to a limitation upon variation in daily takes of pipeline companies, change of measurement basis to provisions of Gas Measurement Committee Report No. 3 of the American Gas Association as revised and other changes including deletion of reference to Northwest Mississippi on certain sheets, minor revisions in the quality provisions, and updating of the tariff sheets showing billing demands for pipeline and large volume customers.

United states that copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21394 Filed 10-5-73;8:45 am]

[Docket No. RP74-21]

UNITED GAS PIPE LINE CO.

Notice of Volume Variation Adjustment Clause

OCTOBER 1, 1973.

Take notice that on September 21, 1973, United Gas Pipe Line Company (United) tendered for filing as a part of First Revised Volume No. 1 of United's FPC Gas Tariff, certain Proposed Tariff Sheets. The proposed Tariff Sheets reflect an addition to United's tariff to implement the recovery of certain fixed costs which would otherwise be recoverable only through additional rate filings. United states that its cost of service will be unaffected by the filing of the tariff sheets proposed herein. United further states that it seeks a flexibility in the area of rate design that would permit agreed upon costs to be recovered in the commodity rates from customers to whom the gas is actually delivered. United also seeks a waiver of the proscriptions of § 154.38(d) of the Regulations with regard to the filing of rate schedules, and proposes a full hearing.

United states that copies of the proposed tariff sheets and supporting data have been furnished United's jurisdictional customers, interested state commissions and parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21395 Filed 10-5-73;8:45 am]

[Docket No. CP67-20]

UNITED GAS PIPE LINE CO. AND TEXAS EASTERN TRANSMISSION CORP.

Notice Postponing Hearing

SEPTEMBER 28, 1973.

On September 21, 1973, United Gas Pipe Line Company filed a motion to reschedule the hearing date fixed by order issued September 17, 1973, in the above-designated matter. The motion states that none of the parties have indicated any objection to this motion.

Upon consideration, notice is hereby given that the hearing in the above matter is postponed to October 24, 1973, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21396 Filed 10-5-73;8:45 am]

[Docket No. E-8410]

UNITED ILLUMINATING CO.

Notice of Initial Rate Filing

OCTOBER 1, 1973.

Take notice that United Illuminating Company (Company) tendered for filing on September 20, 1973, as an initial rate schedule Purchase Agreement No. 6 with respect to Bridgeport Harbor Unit No. 3 dated August 23, 1973 (Agreement) between the Company and Consolidated Edison Company of New York, Inc. (Edison). The Company estimates that it will receive approximately $1,854,000 in revenues during the term of the Agreement; September 3, 1973, to October 31, 1973. The Company requests waiver of the notice requirements of the Commission's regulation and a September 3, 1973, effective date. The Company states that concurrence to the Agreement is evidenced by the signatures of the parties to the Agreement.

In support of its requested waiver of the Commission's notice requirements, the Company states that waiver is required because the negotiations leading to the Agreement were recently consummated which did not permit an earlier filing of the rate schedule. Moreover, the Company avers that the capacity and energy covered by the Agreement is immediately required by Edison and the requested waiver will have no effect on other purchases.

The Company states that a copy of this filing has been served on Edison.

Any person desiring to be heard or to protest said filing should file a petition to intervene with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C., in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions should be filed on or before October 10, 1973. Protest will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21358 Filed 10-5-73;8:45 am]

[Docket No. E-8157]

WISCONSIN PUBLIC SERVICE CORP.

Proposed Changes in Rates and Charges; Correction

ERRATA NOTICE

JUNE 26, 1973.

In the Order Suspending Proposed Changes in Rates and Charges Setting matter For Hearing and Intervention, Issued June 26, 1973 and published in the FEDERAL REGISTER July 19, 1973, 38 FR

19254: In ordering paragraph (A) a prehearing conference is called for August 17, 1973. This date should be November 13, 1973. Also, in ordering paragraph (B) the prehearing conference date should be changed from August 17, 1973, to November 13, 1973. Ordering paragraph (C) directs that a public hearing shall convene on January 8, 1973, at 10 a.m., e.d.t. This should be January 8, 1974, e.s.t. Finally, Ordering paragraph (E) directs that WPS's revised rate schedule be suspended until August 27, 1973, on day after the proposed effective date. This should read "suspended until August 27, 1973, 60 days after the proposed effective date."

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-21365 Filed 10-5-73;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Wildlife Order 111]

FRANKLIN ISLAND LIGHT STATION, MAINE

Transfer of Property

Pursuant to section 2 of Public Law 537, Eightieth Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By letter from the General Services Administration, Boston, Massachusetts, Regional Office, dated September 17, 1973, the property, which consists of approximately 12 acres of land and one building and which is identified as a portion of the Franklin Island Light Station, Town of Friendship, Knox County, Maine, U-Maine-583, has been transferred to the Department of the Interior.

2. The above described property was conveyed for wildlife conservation purposes in accordance with the provisions of Section 1 of said Public Law 537 (16 U.S.C. 667c), as amended, by Public Law 92-432.

Dated September 28, 1973.

L. F. ROUSH,
Commissioner,
Public Buildings Service.

[FR Doc.73-21319 Filed 10-5-73;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

OLD BEN COAL CORP.

Opportunity for Public Hearing Regarding Applications for Renewal Permits

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (2.0mg/m³) have been received as follows:

(1) ICP Docket No. 20163, Old Ben Coal Corporation, Mine No. 21, Mine ID No. 11 00588 0, Sesser, Illinois 62884;
Section ID No. 002 (1st thru 8th East South Cross Entry).
Section ID No. 020 (48th, 49th, 50th, 50A N. Panel off 8th East North).
Section ID No. 032 (39th, 40th, 41st, 41A N. Panel off 1st East South).
Section ID No. 043 (1st thru 6th Main South Cross Entries).
Section ID No. 047 (60A, 60th, 61st, S. Panel off 1st East North).
Section ID No. 048 (8th thru 20th West South Cross Entries).
Section ID No. 049 (51A, 51st, 52nd, 53rd N. Panel off 1st East South).
Section ID No. 050 (54A, 54th, 55th, 56th S. Panel off 8th East South).
Section ID No. 052 (57th, 58th, 59th S. Panel off 1st East North).
Section ID No. 053 (5th, 6th, 7th, 8th W. Panel off 39A North off 1st East South).
Section ID No. 054 (1A, 1st, 2nd, 3rd N. Panel off 8th West South).
Section ID No. 055 (54A, 54th, 55th, 56th N. Panel off 1st East South).
Section ID No. 056 (1st 2nd, 3rd, 3A S. Panel off 20th West South).

(2) ICP Docket No. 20164, Old Ben Coal Corporation, Mine No. 24, Mine ID No. 11 00589 0, Benton, Illinois 62812:
Section ID No. 004 (58th thru 62rd North Entry Group off 1st W.S.).
Section ID No. 009 (9th thru 18th East South Cross Entry Group).
Section ID No. 017 (1st thru 8th East South Cross Entry Group).
Section ID No. 040 (1st thru 5th Main North Entry Group).
Section ID No. 045 (13th, 14th, 15th W. Panel off 63rd North off 1st West South).
Section ID No. 049 (6th, 7th, 8th, 9th, 10th Main North).
Section ID No. 050 (11A, 12th, 13th, 14th N. Panel off 1st East South).
Section ID No. 052 (1st thru 12th West North Cross Entries).
Section ID No. 053 (2nd, 2A, 3rd, 4th Main South Panel).
Section ID No. 054 (10A, 10th, 11th, 12th South off 8th East South).
Section ID No. 056 (15A, 15th, 16th, 17th N. Panel off 1st East South).

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed on or before October 24, 1973. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

OCTOBER 2, 1973.

[FR Doc.73-21312 Filed 10-5-73;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MUSEUM ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Museum Advisory Panel to the National Council on the Arts will be held at 9:30 a.m. on October 25, 1973 and at 9:30 a.m. on October 26, 1973 at the Fogg Museum, Boston, Massachusetts.

A portion of this meeting will be open to the public on October 26 from 10:00 a.m. to 3:00 p.m. on a space available basis. Accommodations are limited. The remaining sessions of this meeting on October 25 and 26 are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4), (5), and (6))), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Eleanor A. Snyder, Advisory Committee Management Officer, National Endowment for the Arts, 806 15th Street NW., Washington, D.C. 20506, or call Area Code 202-382-3642.

PAUL BERMAN,
Director of Administration, National Foundation on the Arts and the Humanities.

[FR Doc.73-21346 Filed 10-5-73;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

ADVISORY COMMITTEE ON GNP DATA IMPROVEMENT

Notice of Public Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Advisory Committee on GNP Data Improvement to be held in Room 10104, New Executive Office Building, 726 Jackson Place NW., Washington, D.C., on Wednesday, October 10, 1973, at 9:45 A.M.

At this meeting the Committee will consider the trade-off between timeliness and accuracy for the quarterly Gross National Product estimates and will examine the data gaps identified in the 5-year input-output benchmarks and the annual benchmarks.

The meeting will be open to public observation and participation. Anyone wishing to participate should contact the GNP Data Improvement Project, Statistical Policy Division, Room 10222, New Executive Office Building, Washington, D.C. 20503, telephone 202-395-3793.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.73-21311 Filed 10-5-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 357]

ASSIGNMENT OF HEARINGS

OCTOBER 3, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 2202 Sub 437, Roadway Express, Inc., now being assigned hearing November 5, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 105566 Sub 92, Sam Tanksley Trucking, Inc., now being assigned continued hearing November 12, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 35735, Publication Corporation v. The Baltimore & Annapolis Railroad Company, now being assigned hearing November 5, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 35541, E-Z Por Corporation-V-Jones Motor Company, et al, now being assigned hearing November 12, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC-F-11704, Mohawk Motor, Inc.—Purchase (Portion)—Michigan Express, Inc., & MC-F-11707, Indianhead Truck Line, Inc.—Purchase (Portion)—Michigan Express, Inc., now being assigned hearing November 26, 1973 (1 week), at Detroit, Mich., in a hearing room to be later designated.

MC-F-11870, Overnite Transportation Company—Purchase (Portion)—Mills Transfer Co., now being assigned hearing December 3, 1973 (3 days), at Columbus, Ohio, in a hearing room to be later designated.

MC-C-8076, Quick Air Freight, Inc.—Investigation and Revocation of Certificates—MC-F-11805, Quick Air Freight, Inc.—Control—Vandalia Air Freight, Inc.; and MC 120265 Sub 2, Vandalia Air Freight, Inc., now being assigned hearing December 6, 1973 (2 days), at Columbus, Ohio, in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-21413 Filed 10-5-73;8:45 am]

[Notice No. 363]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74657. By order of September 25, 1973, the Motor Carrier Board approved the transfer to Joseph C. Bockin, Jr., doing business as J. Bockin, Yardley, Pa., of Certificate No. MC-85113 issued September 10, 1963, to Samuel M. Stover, Doylestown, Pa., authorizing the transportation of peat moss, lime, fertilizer, and tomatoes from and to points in Pennsylvania and New Jersey, and Baltimore, Md. Mr. Alan Kahn, Attorney at Law, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102.

No. MC-FC-74709. By order of September 21, 1973, the Motor Carrier Board approved the transfer to Anthony G. Funaro, 35 Waite Street, Norwich, N.Y. 13815, of Certificate No. MC-109160 issued August 30, 1948, to Anthony Funaro, doing business as Funaro's Movers, Norwich, N.Y., authorizing the transportation of household goods between points in Chenango County, N.Y., on the one hand, and, on the other, points in New York, Pennsylvania, New Jersey, Rhode Island, Connecticut Massachusetts, New Hampshire, Vermont, Maryland, West Virginia, Virginia, and the District of Columbia.

No. MC-FC-74732. By order entered October 1, 1973, the Motor Carrier Board approved the transfer to Eby Brothers, Inc., Boise, Idaho, of the operating rights set forth in Certificates Nos. MC-114840 (Sub-No. 8), MC-114840 (Sub-No. 10), and MC-114840 (Sub-No. 13), issued by the Commission August 24, 1970, August 1, 1972, and September 13, 1973, respectively, to Eugene Eby, Glenn Eby, and Wayne Eby, doing business as Eby Brothers, Boise, Idaho, authorizing the transportation of lumber, lumber products, particleboard, laminated wood beams, and poles, building materials and steel and steel products, stone and clay products, pre-cast and pre-stressed concrete products, corrugated steel pipe and steel storage tanks, from, to, or between points in Idaho, Oregon, Utah, and Nevada. Kenneth G. Bergquist, P.O. Box 1775, Boise, Idaho 83701, attorney for applicants.

No. MC-FC-74744. By order entered October 2, 1973, the Motor Carrier Board approved the transfer to Preferred Delivery, Inc., Indianapolis, Ind., of the operating rights set forth in Certificate No. MC-62660, issued August 12, 1970, to Strohm Warehouse of Indianapolis, Inc., Indianapolis, Ind., authorizing the transportation of general commodities, with the usual exceptions, between points within 8 miles of Indianapolis, Ind., including Indianapolis. David Stippler, 45 North Pennsylvania St. Suite 312, Indianapolis, Ind. 46204, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-21417 Filed 10-5-73;8:45 am]

Office of Proceedings

[Notice No. 133]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 1, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 44735 (Sub-No. 7 TA) (correction), filed July 2, 1973, published in the FEDERAL REGISTER issue of August 10, 1973, and republished as corrected this issue. Applicant: KISSICK TRUCK LINES, INC., 1600 Genessee, P.O. Box 5687, Kansas City, Mo. 64102. Applicant's representative: Lucy Kennard Bell, 910 Fairfax Building, 101 West 11th Street, Kansas City, Mo. 64105.

NOTE.—The purpose of this republication is to add the tacking or interline information, which was omitted in previous publication. The interline information is: Application will interline at Kansas City. The rest of the application remains the same.

No. MC 52593 (Sub-No. 3 TA), filed September 21, 1973). Applicant: SIOUX CITY REFRIGERATED EXPRESS, INC., P.O. Box 1054, Friend, Nebr. 68359. Applicant's representative: John L. Ross, 69 Woodland Circle, Edinal, Minn. 55424. Authority sought to operate as a *contract*

carrier, by motor vehicle, over irregular routes, transporting: (1) *Tractors wheels, wheel rims, and related mounting hardware, hubs and clamps,* from Plainfield, Ill., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, and Wyoming; and (2) *Such commodities* as are used in the manufacturing, sale, and distribution of commodities described above from the states named in 1 above to Plainfield, Ill., for 180 days. SUPPORTING SHIPPER: James L. Anderson, General Manager, Peterson Manufacturing Company, 700 West 143rd Street (P.O. Box 8), Plainfield, Ill. 60544. SEND PROTESTS TO: Max H. Johnston, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 320 Federal Building and Courthouse, Lincoln, Nebr. 68508.

No. MC 52869 (Sub-No. 93 TA), filed September 20, 1973. Applicant: NORTHERN TANK LINE, P.O. Box 970, Miles City, Mont. 59301. Applicant's representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sugar beet pulp and molasses,* in bulk, in tank vehicles, from Billings and Sidney, Mont., to points in North Dakota, for 180 days. SUPPORTING SHIPPER: Peavey Company, 730 2d Ave. South, Minneapolis, Minn. 55402. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 U.S. Post Office Bldg., Billings, Mont. 59101.

No. MC 61445 (Sub-No. 5 TA), filed September 19, 1973. Applicant: CONTRACTORS TRANSPORT CORP., 5800 Farrington Avenue, Alexandria, Va. 22304. Applicant's representative: Daniel B. Johnson, 716 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Structural steel,* from Troutville, Va., to Washington, D.C., for 180 days. SUPPORTING SHIPPER: Leon J. Beekman, Vice President-Operations, Roanoke Iron and Bridge Works, Inc., P.O. Box 1711, Roanoke, Va. 24008. SEND PROTESTS TO: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 87909 (Sub-No. 16 TA), filed September 19, 1973. Applicant: ARROW MOTOR FREIGHT LINE, INC., 2125 Commercial Street, P.O. Box 5000, Waterloo, Iowa 50704. Applicant's representative: Paul Rhodes (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass glazing units,* from Mason City, Iowa, to Bayport, Minn., for 180 days. SUPPORTING SHIPPER: Libby-Owens-Ford Company, 811 Madison Avenue, Toledo, Ohio 43695. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 88720 (Sub-No. 151 TA), filed September 20, 1973. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, N.J. 08822. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), *advertising matter, display racks and premiums,* when moving in the same vehicle at the same time, from the plantsite of American Home Foods Division of American Home Products Corporation, Milton, Pa., to points in Anniston, Birmingham, Huntsville, Mobile, Montgomery, Prichard, and Selma, Ala.; Hialeah, Jacksonville, Lakeland, Miami, Ocala, Orlando, Pensacola, Pompano Beach, Quincy, Tallahassee, and Tampa, Fla.; Albany, Athens, Atlanta, Augusta, Cairo, College Park, Columbus, East Point, Forest Park, Macon, Savannah, Statesboro, and Vidalia, Ga.; Charlotte, Dunn, Goldsboro, Greensboro, Henderson, Hickory, High Point, Kinston, North Wilkesboro, Raleigh, Rocky Mount, Salisbury, Warsaw, Washington, Wilkesboro, and Zebulon, N.C.; Charleston, Columbia, Greenville, Scranton, Spartanburg, and Startex, S.C.; Chattanooga, Cleveland, Johnson City, Knoxville, Lafayette, and Nashville, Tenn., for 180 days. RESTRICTION: The proposed service to be performed under contract with American Home Products Corporation. SUPPORTING SHIPPER: American Home Foods, Division of American Home Products Corporation, 685 Third Avenue, New York, N.Y. 10017. SEND PROTESTS TO: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 105501 (Sub-No. 10 TA), filed September 21, 1973. Applicant: TERMINAL WAREHOUSE COMPANY, 498 First Street Northwest, P.O. Box 2767, New Brighton, Minn. 55112. Applicant's representative: Joseph J. Dudley, W-1260 1st National Bank Bldg., St. Paul, Minn. 55101. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wallboard, hardboard and insulation materials,* from Cloquet, Minn. (plantsite of Conwed Corp.), to points in North Dakota, South Dakota, Nebraska, Iowa, Kansas, Missouri, Wisconsin, Illinois, Michigan, Indiana, and Minnesota, for 180 days. SUPPORTING SHIPPER: Conwed Corporation, Arch St., Cloquet, Minn. 55720. SEND PROTESTS TO: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 107002 (Sub-No. 437 TA), filed September 24, 1973. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123 (U.S. Highway 80 West), Jackson, Miss. 39205. Applicant's representative: John J. Borth, P.O. Box 1123, Jackson, Miss. 39205. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Waste sulfide,* in bulk, in tank vehicles, from Marrero, Louisiana to Montgomery, Alabama, for 180 days. SUPPORTING SHIPPER: Merichem Company, 1914 Haden Road, Houston, Tex. 77015. SEND PROTESTS TO: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 107515 (Sub-No. 876 TA), filed September 18, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Rd. S.E., Forest Park, Ga. 30050. Applicant's representative: Watkins and Daniell, Suite 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* in vehicles equipped with mechanical refrigeration (except commodities in bulk) (a) from the plantsite of Breakstone Sugar Creek Foods, Division of Kraftco Corporation at South Edmeston, N.Y., to points in North Carolina, South Carolina, Georgia, Florida, Tennessee, and Alabama; and (b) from Walton, N.Y., Hagerstown, Md., and Elizabeth, N.J., to points in Alabama and Tennessee, for 180 days. SUPPORTING SHIPPER: Breakstone Sugar Creek Foods, Division of Kraftco Corporation, 450 E. Illinois Street, Chicago, Ill. 60611. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 112539 (Sub-No. 9 TA), filed September 20, 1973. Applicant: PERCHAK TRUCKING, INC., P.O. Box 811, Route No. 309, Hazle Village, Hazleton, Pa. 18201. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Beryl ore,* from the facilities of Kawecki Berylco Industries, Inc. at or near Hazleton, Pa., to Elmore, Ohio, for 180 days. SUPPORTING SHIPPER: Kawecki Berylco Industries, Inc., P.O. Box 1462, Reading, Pa. 19603. SEND PROTESTS TO: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 112627 (Sub-No. 18TA), filed September 20, 1973. Applicant: OWENS BROS., INC., P.O. Box 247, Dansville, N.Y. 14437. Applicant's representative:

S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Fort Wayne, Ind., to Lakeville, N.Y.; and return of empty containers and pallets in reverse direction; and from Columbus, Ohio and Fort Wayne, Ind., to Elmira Heights, N.Y. and return of empty containers and pallets in reverse direction, for 180 days. SUPPORTING SHIPPERS: WEST BEER DISTRIBUTORS, INC., Francis E. West, President, Lakeville, N.Y. 14480. SENECA BEVERAGE CORPORATION, John F. Potter, President, 3496 Oakwood Avenue, Elmira Heights, N.Y. 14903. SEND PROTESTS TO: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 104, 301 Erie Blvd., West, Syracuse, N.Y. 13202.

No. MC 112750 (Sub-No. 303 TA), filed September 21, 1973. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, and business records* (except currency and negotiable securities), as are used in the business of banks and banking institutions, between points in Hartford County, Conn., on the one hand, and, on the other, Portland, Maine, for 180 days. SUPPORTING SHIPPER: Hartford National Bank and Trust Company, 150 Windsor Street, Hartford, Conn. 06120. SEND PROTESTS TO: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 113198 (Sub-No. 3 TA), filed September 21, 1973. Applicant: HENRY J. UTERMOEHLEN, doing business as UTERMOEHLEN BLOCK AND COAL COMPANY, Palmer and North West Street, Mailing: Drawer N, Arma, Kans. 66712. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Mackie-Clemens Mine No. 22, located approximately 2 miles north and ¼ mile west of Mulberry, Kans., to the Empire District and Electric Power Plant located approximately 1½ miles north and 1 mile east of Opolis, Kans., but located in the State of Missouri, for 150 days. SUPPORTING SHIPPER: Mackie-Clemens Fuel Company, 320 North Locust, Pittsburg, Kans. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 114265 (Sub-No. 28TA), filed September 18, 1973. Applicant: RALPH SHOEMAKER, doing business as SHOEMAKER TRUCKING CO., 8624 Franklin Rd., Boise, Idaho 83705. Applicant's representative: F. L. Sigloh, P.O. Box 7651, Boise, Idaho 83707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal and compressed auto bodies and parts*, from points in Idaho south of Idaho County, to points in King County, Wash.

NOTE.—Applicant does not intend to tack authority or interline with any other carriers, for 180 days. SUPPORTING SHIPPER: The Purdy Co. of Washington, 1200 112th Ave. NE., Bellevue, Wash. 98004. SEND PROTESTS TO: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 115524 (Sub-No. 20 TA), filed September 6, 1973. Applicant BURSCH TRUCKING, INC., 415 Rankin Road NE., Albuquerque, N. Mex. 87107. Applicant's representative: Don F. Jones (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, including *roofing, roofing products, equipment and supplies, composition and prepared roofing and insulation materials* (except commodities the transportation of which because of their size or weight requires the use of special equipment and commodities in bulk), (1) from Lubbock, Tex., to points in Arizona, Colorado, and New Mexico; (2) from Phillipsburg, Kans., to points in Arizona, Colorado, and New Mexico; and (3) from Joplin, Mo., to points in Arizona, Colorado, and New Mexico, for 180 days. SUPPORTING SHIPPER: Roofing Wholesale Co., Inc., 1918 West Grant Street, Phoenix, Ariz. 85009. SEND PROTESTS TO: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Street SW., Albuquerque, N. Mex. 87101.

No. MC 119493 (Sub-No. 104 TA), filed September 19, 1973. Applicant: MONKEM COMPANY, INC., West 20th Street Road, P.O. Box 1196, Joplin, Missouri 64801. Applicant's representative: Ray F. Kempt, P.O. Box 1196, Joplin, Missouri 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *manufactured asphalt roofing, roofing sealer, and coating* (in containers not to exceed 5 gallons), from the plantsite and warehouse facilities of Tamko Asphalt Products, Inc., in Joplin, Mo., to points in Kentucky, Tennessee, and Mississippi, for 180 days. SUPPORTING SHIPPER(S): Tamko Asphalt Products, Inc., P.O. Box 1404, Joplin, Mo. 64801. SEND PROTESTS TO: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 119726 (Sub-No. 35 TA), filed September 10, 1973. Applicant: N. A. B. TRUCKING CO., INC., 2502 West Howard Street, P.O. Box 21006, Indianapolis, Ind. 46221. Applicant's representative: James L. Beattey, 130 E. Washington Street, Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and closures thereof*, including *caps, covers, and tops*, between the plant site of Midland Glass Company at Warner Robins, Ga. and the plant site of Joseph Schlitz Brewing Company at Winston-Salem, N.C., and Memphis, Tenn., for 180 days. SUPPORTING SHIPPER: Midland Glass Company, Cliftwood, N.J. SEND PROTESTS TO: District Supervisor, James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Bldg., 36 S. Penn. St., Indianapolis, Ind. 46204.

No. MC 123744 (Sub-No. 11 TA), filed September 20, 1973. Applicant: BUTLER TRUCKING COMPANY, P.O. Box 88, Woodland, Pa. 16881. Applicant's representative: William J. Hirsch, 35 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and lime products, limestone and limestone products*, and *returned shipments* on return, from points in Centre County, Pa., to ports of entry on the international boundary line between the United States and Canada in New York, for 180 days. SUPPORTING SHIPPER: Warner Company, 1721 Arch Street, Philadelphia, Pa. 19103. SEND PROTESTS TO: District Supervisor, James C. Donaldson, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 125551 (Sub-No. 5 TA), filed September 20, 1973. Applicant: K & W TRUCKING CO., INC., P.O. Box 1415, St. Cloud, Minn. 56301 and Office: 2669 Territorial Road, St. Paul, Minn. 55114. Applicant's representative: Rollis H. Anderson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood pulp*, in bales, from ports of entry at the United States-Canadian boundary line located in North Dakota, to Brainerd, Minn., for 180 days. SUPPORTING SHIPPER: The Northwest Paper Company, Avenue C and Arch Street, Cloquet, Minn. 55720. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 126594 (Sub-No. 2 TA), filed September 20, 1973. Applicant: CUSTOMERS TRUCK SERVICE, 1820 W. Allard Avenue, Eureka, Calif. 95501. Applicant's representative: Marshall G. Berol, Loughran, Berol, and Hegarty, 100 Bush Street, 21st Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from Eureka, Calif., to points in Jackson and Josephine Counties, Oreg., for 180 days. SUPPORTING SHIPPER: Kaiser Cement & Gypsum Corporation, 300 Lakeside Drive, Oakland, Calif. 94604. SEND PROTESTS TO: A. J. Rodriguez, District Supervisor,

Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 127355 (Sub-No. 12 TA), filed September 5, 1973. Applicant: M & N GRAIN COMPANY, P.O. Box 21, Nevada, Mo. 64772. Applicant's representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, Mo. 64105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pipeline skids*, between points in Alabama, Florida, Georgia, Indiana, Kentucky, Michigan, Mississippi, Ohio, Pennsylvania, and Tennessee, for 180 days.

NOTE.—Applicant, a contract carrier, seeks to increase its sub 4 scope of authority. SUPPORTING SHIPPER: Pipeline Skid Service, Inc., 222 West Main Street, Chanute, Kans. SEND PROTESTS TO: John V. Barry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 128024 (Sub-No. 6 TA), filed September 21, 1973. Applicant: BUILDING TRANSPORTATION COMPANY, P.O. Box 22261, Dallas, Tex. 75222. Applicant's representative: Ralph W. Pulley, Jr., 4555 First National Bank Bldg., Dallas, Tex. 75202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Portable buildings and equipment, materials, and supplies* used in the construction thereof, between points in the United States under contract with Morgan Portable Building Corp., and its affiliate Morgan-Dallas Corporation, for 180 days. SUPPORTING SHIPPER: Morgan Portable Building Corp. and Morgan-Dallas Corporation, 10560 N. Central Expressway, Dallas, Tex. SEND PROTESTS TO: Transportation Specialist Gerald T. Holland, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 128256 (Sub-No. 23 TA), filed September 20, 1973. Applicant: O. W. BLOSSER, doing business as BLOSSER TRUCKING, 215 N. Main Street, Middlebury, Ind. 46540. Applicant's representative: Alki E. Scopelitis, 615 Merchants Bank Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from the plant and warehouse sites of Broyhill Industries, Caldwell County, N.C., to Selma, Ala., and points in Georgia, South Carolina, Tennessee, and Virginia, for 180 days. SUPPORTING SHIPPER: John Sloop, Plant Manager, Broyhill Industries, Broyhill Park, Lenoir, N.C. 28645. SEND PROTESTS TO: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, 345 W. Wayne Street, Room 204, Fort Wayne, Ind. 46802.

No. MC 128527 (Sub-No. 42 TA), filed September 20, 1973. Applicant: MAY TRUCKING COMPANY, P.O. Box 398, Payette, Idaho 83661. Applicant's representative: C. Marvin May (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Livestock and poultry feed supplements and feed*, from the plantsite of Moorman Mfg. Co. of California, Inc., at or near Fruitland, Idaho, to points in Washington, Oregon and Utah, for 180 days. SUPPORTING SHIPPER: Moorman Mfg. Co. of California, Inc., P.O. Box 100, San Gabriel, Calif. 91778. SEND PROTESTS TO: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 129193 (Sub-No. 2 TA), filed September 14, 1973. Applicant: HARRISON TRANSPORT, INC., Off: 3520 Adamo Drive, Mlg: P.O. Box 5895, Sarasota, Fla. 33581. Applicant's representative: Richard B. Austin, 5255 NW. 87th Avenue, Miami, Fla. 33166. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) restricted to traffic having prior or subsequent handling by freight forwarders between Tampa, Fla., on the one hand, and, on the other, Collier County, Fla., for 180 days. SUPPORTING SHIPPER: Florida-Texas Freight, Inc., Post Office Box 206, Miami, Fla. 33148. SEND PROTESTS TO: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 SW. 17th St., Room 105, Miami, Fla. 33155.

No. MC 129973 (Sub-No. 8 TA), filed September 24, 1973. Applicant: FIELD MARKETING SERVICES, INC., 825 Third Avenue, off of, 466 Lexington Ave., New York, N.Y. 10022. Applicant's representative: William J. Lippman, Suite 550, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Books, and educational materials, equipment, and supplies*. Between points in Hudson, Essex, and Union Counties, N.J., and New York, N.Y., on the one hand; and, on the other, points in New Castle County, Del.; Bucks, Chester, Del., Montgomery and Philadelphia Counties, Pa.; Nassau, Orange, Rockland, Suffolk, and Westchester Counties, N.Y.; and points in New Jersey (except between Hudson, Essex and Union Counties, N.J., on the one hand, and, on the other, points in Nassau, Suffolk, and Westchester Counties, N.Y.), for 180 days. SUPPORTING SHIPPER: Encyclopaedia Britannica, Inc., Att: John C. Jackson, 425 North Michigan Avenue, Chicago, Ill. 60611. SEND PROTESTS TO: Stephen P. Tomany, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 133106 (Sub-No. 32 TA), filed September 25, 1973. Applicant: NATIONAL CARRIERS, INC., 1501 E. 8th St., P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Frederick J. Coffman, 521 South 14th St., P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulated wire, electric plugs, and cord sets*, power supply cords and related items, from Rumford, Rhode Island, to points in Arizona, California, Idaho, Nevada, Oregon, and Washington, under continuing contract with International and Telegraph Corporation, for 180 days. SUPPORTING SHIPPER: International Telephone and Telegraph Corporation, 170 Greenwood Avenue, Rumford, R.I. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 133975 (Sub-No. 1 TA), filed September 21, 1973. Applicant: FLAMINGO TRANSPORTATION, INC., 1801 SW. 1st Avenue, Fort Lauderdale, Fla. 33315. Applicant's representative: Richard B. Austin, 8675 NW. 53d Street, Koger Building, Suite 123, Miami, Fla. 33166. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment and mobile homes), between points in Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Collier, and Lee Counties, Fla., and the city of Clewiston, Fla., and its commercial zone, restricted to traffic having an immediately prior or subsequent handling by freight forwarders, for 180 days.

NOTE.—Applicant intends to tack with MC 133975 at Dade, Broward, and Palm Beach Counties, Fla.

SUPPORTING SHIPPERS: Republic Freight System, Inc., 2335 New Hyde Park Road, Lake Success, N.Y. 11040, and Florida-Texas Freight, Inc., Post Office Box 48–206, Miami, Fla. 33148. SEND PROTESTS TO: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 SW. 17th Street, Room 105, Miami, Fla. 33155.

No. MC 134138 (Sub-No. 2 TA), filed September 12, 1973. Applicant: ALVIN B. HARRISON, JR., doing business as LAND-AIR FREIGHT, Oshkosh, Wis. 54901. Applicant's representative: John J. Keller, 145 W. Wisconsin Ave., Neenah, Wis. 54956. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Class A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment) between Austin Straubel Airport, Green Bay, Wis.; Wittman Field, Oshkosh, Wis.; General Mitchell Field, Milwaukee, Wis.; and O'Hare Airport, Chicago, Ill., on traffic having a prior or subsequent movement by air under a continuing contract or contracts with

North Central Airlines, Inc., for 90 days. SUPPORTING SHIPPERS: North Central Airlines, Inc., 7500 Northliner Drive, Minneapolis, Minn. 55450; George Banta Company, Inc., Curtis Reed Plaza, Menasha, Wis. 54952; Rockwell-Standard Division, Rockwell International, 1005 High Ave., Oshkosh, Wis. 54901; Wisconsin Tissue Mills, P.O. Box 489, Third St., Menasha, Wis. 54952; Neenah Foundry Company, 500 Winneconne Avenue, Neenah, Wis. 54956; and Bergstrom Paper Company, Bergstrom Road, Neenah, Wis. 54956. SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 134145 (Sub-No. 38 TA), filed September 11, 1973. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Thief River Falls, Minn. 56701. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machines, computing and parts, materials, and supplies* (except commodities in bulk), used in the manufacturing thereof, from (1) Kalamazoo, Mich., to Nashville, Tenn., (2) from Nashville, Tenn., to Minneapolis, Minn., Dayton, Ohio, and O'Hare Air Terminal near Chicago, Ill., and (3) from Niles and Chicago, Ill., and Minneapolis-St. Paul, Minn., to Rochester and Mount Clemens, Mich., for 180 days. SUPPORTING SHIPPER: Computer Peripherals, Inc., 6800 France Avenue, Edina, Minn. 55400. SEND PROTESTS TO: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 135352 (Sub-No. 6 TA), filed September 21, 1973. Applicant: VANDER HART TRANSFER & STORAGE, INC., 221 South Street, Mlg: Box 326, Pella, Iowa 50219. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *bagged cellulose insulation*, from Oskaloosa, Iowa, to points in Arkansas, Illinois, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin; and (2) *used paper* for recycling purposes only from points in Arkansas, Illinois, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, to Oskaloosa, Iowa, for 180 days. SUPPORTING SHIPPER: Hagan Manufacturing Company, 601 1st Avenue West, Oskaloosa, Iowa 53577. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 135469 (Sub-No. 3 TA), filed September 19, 1973. Applicant: HAWKEYE TRANSPORT CO., 601 East Front Street, Stanwood, Iowa 52337. Applicant's representative: Carl E. Munson, 469 Fischer Building, Dubuque, Iowa 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prestressed and precast concrete products*, from Cedar Rapids, Iowa, to points in Illinois, for 180 days. SUPPORTING SHIPPER: Wheeler Division, St. Regis Paper Company, Box 160, West Des Moines, Iowa 50265. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 136375 (Sub-No. 1 TA), filed September 20, 1973. Applicant: DONCO CARRIERS, INC., P.O. Box 7541, Oklahoma City, Okla. 73107. Applicant's representative: Wm. L. Peterson, Jr., 401 N. Hudson, P.O. Box 917, Oklahoma City, Okla. 73101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen cabinets* (as presently shown under NMFVB, Furniture Item 32700), from Auburn, Nebr., to points in Arizona, Arkansas, California, Colorado, Idaho, Louisiana, Minnesota, Montana, New Mexico, Nevada, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming, for 180 days. SUPPORTING SHIPPER: Triangle Pacific Cabinet Corp., Anthony V. Niles, 9 Park Place, Great Neck, N.Y. 11021. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240-Old P.O. Bldg., 215 NW Third, Oklahoma City, Okla. 73102.

No. MC 136386 (Sub-No. 7 TA), filed September 18, 1973. Applicant: GO LINES, INC., 8023 E. Slauson Avenue (Suite 6), Montebello, Calif. 90640. Applicant's representative: Mr. Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods*, from the plant sites and/or storage facilities utilized by the supporting shipper in Madera, Stanislaus, and San Joaquin Counties, Calif., to points in Washington, Oregon, Idaho, Nevada, and Utah, for 180 days. SUPPORTING SHIPPER: Tri/Valley Growers, 100 California St., San Francisco, Calif. 94106. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 136786 (Sub-No. 31 TA), filed September 24, 1973. Applicant: ROBCO TRANSPORTATION, INC., 3033 Excelsior Blvd., Room 205, Minneapolis, Minn. 55416. Applicant's representative: K. O. Petrick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and storage facilities utilized by Totino's Foods, Inc., Minneapolis and Fridley, Minn., to points in Texas, for 150 days. SUPPORTING SHIPPER: Totino's Finer Foods, Inc., 7350 Commerce Lane, Fridley, Minn. 55432. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 138464 (Sub-No. 2 TA), filed September 24, 1973. Applicant: RICHARD C. SHEARER, INC., 12340 S. E. Dumolt Road, Clackamas, Oreg. 97015. Applicant's representative: Ben R. Swinford, 3076 E. Burnside Street, Portland, Oreg. 97214. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wooden shakes, shingles, ridge and other assessorial parts* for installation on roofs, including *asphalt paper and shingles*, from points in Oregon and Washington, to points in California, for 180 days. SUPPORTING SHIPPER: International Paper Company, 220 E. 42nd Street, New York, N.Y. 10017. SEND PROTESTS TO: District Supervisor, A. E. Odoms, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 S. W. Pine Portland, Oreg. 97204.

No. MC 138575 (Sub-No. 3 TA), filed September 21, 1973. Applicant: GWINNER OIL CO., INC., Gwinner, N. Dak. 58040. Applicant's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transport: (1) *Agricultural machinery and equipment and related parts and accessories;* and (2) *self propelled skid steer loaders, attachments and related parts and accessories*, from the plantsite and facilities of Clark Equipment Company—Melroe Division at Bismarck, N. Dak., to the ports of entry on the international boundary line between the United States and Canada located near Pembina and Portal, N. Dak., and Sweetgrass, Mont., for 180 days. SUPPORTING SHIPPER: Clark Equipment Co.—Melroe Division, Gwinner, N. Dak. SEND PROTESTS TO: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 138725 (Sub-No. 1 TA), filed September 18, 1973. Applicant: BOB'S WINDOW CLEANING SERVICE, INC., 14 Park Ave., Salem, N.H. 03079. Applicant's representative: Peter H. Bronstein, 88 No. Broadway, Salem, N.H. 03079. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Non-negotiable checks and sealed envelops, data process papers and computer tapes* between points in Maine, Massachusetts, New Hampshire and Vermont, for 180 days: SUPPORTING SHIPPER(S): Arlington Trust Company, 476 Broadway, Methuen, Maine 01844, Merrimack Valley National Bank, 23 Main St., Andover, Maine, Pelham Bank & Trust Co., Pelham Plaza, Pelham, N.H., and Rockingham

County Trust Co., 267 So. Broadway, Salem, N.H. 03079. SEND PROTESTS TO: District Supervisor, Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Fed. Bldg., Concord, N.H. 03301.

No. MC 139024 (Sub-No. 1 TA), filed September 7, 1973. Applicant: MASON and DERRICK INC., doing business as BAR SAND and GRAVEL, 1105 South 3d, P.O. Box 24, Sedro Woolley, Wash. 98284. Applicant's representative: George R. La Bissoniere, Suite 101, 130 Andover Park E., Seattle, Wash. 98188. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed mixtures, damp*, in bulk from Mt. Vernon, Wash., and its commercial zone to International Boundary between U.S. and Canada at or near Lynden, Wash., for 180 days. SUPPORTING SHIPPER: New Century Agriculture Inc., P.O. Box 753, Mount Vernon, Wash. 98273. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 139091 (Sub-No. 1 TA), filed September 19, 1973. Applicant: LOGAN MOTOR LINES, INC., Rt. 2, Box 174A, Canyon, Tex. 79105. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vacuum bottles and fillers, lunch, and picnic boxes and kits, portable heaters, containers, mattresses, and springs, lamps, lanterns, travel bags, camping equipment, stoppers, plastic articles, jugs, cooling boxes and chests, tents, display racks, gas mantels, glassware, insulating material and liquified petroleum and materials, and materials, parts, and supplies* used in the manufacture or distribution of the foregoing items (except liquid commodities in bulk), between the plantsite and facilities of King-Seeley Thermos Co., at or near Macomb, Ill., on the one hand, and, on the other, the plantsite and facilities of King-Seeley Thermos Co., at or near Norwich, Conn., for 180 days. SUPPORTING SHIPPER: E. T. Stanton, Division Traffic Manager, King-Seeley Thermos Co., Thermos Division, Norwich, Conn. 06360. SEND PROTESTS TO: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 139102 (Sub-No. 1 TA), filed September 20, 1973. Applicant: BROADWAY TRANSFER, INC., 941 Fairmount Ave., Elizabeth N.J. 07206. Applicant's representative: Robert B. Pepper, The Forest Park Bldg., 168 Woodbridge Ave., Highland Park, N.J. 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as dealt in by retail department stores, between New York, N.Y., its in Nassau, Suffolk, and Westchester Counties, N.Y., Bergen, Burlington, Camden, Essex, Gloucester, Hudson, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, and Union Counties, N.J.; and Philadelphia Commercial Zone, on the one hand, and, on the other, Philadelphia, Pa., Decatur, Doraville, Forest Park, and Stone Mountain, Ga., Fort Lauderdale, Hialeah, Hollywood, Lauderhill, Miami, Pompano, and West Palm Beach, Fla. Under a continuing contract with Lionel Leisure, Inc., for 180 days. SUPPORTING SHIPPER: Lionel Leisure, Inc., 2951 Grant Avenue, Philadelphia, Pa. 19114. SEND PROTESTS TO: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 139103 TA, filed September 19, 1973. Applicant RAYMOND L. BLAKELEY, HOWARD L. BLAKELEY and JAMES W. BLAKELEY, doing business as BLAKELEY TRUCKING COMPANY, R.D. 2, Box 290, Havre de Grace, Md. 21078. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from Lancaster, Pa., to the Bel Air Farm Supply located at or near Bel Air, Md., and to Walter's Mill located at or near Forest Hill, Md., under a continuing contract with Bel Air Farm Supply and Walter's Mill, for 180 days. SUPPORTING SHIPPER: H. Smith Walter, d.b.a. Bel Air Farm Supply and Walter's Mill, Forest Hill, Md. 21050. SEND PROTESTS TO: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 139104 TA, filed September 20, 1973. Applicant: ARABS ON THE GO, INC., Route 2, Box 7, Brighton, Colo. 80601. Applicant's representative: Robert Leland Johnson, 705 West 8th Avenue, Denver, Colo. 80204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horses*, chiefly valuable for breeding and show purposes (excluding race horses) between points in Colorado, Nebraska, Kansas, Oregon, California, Idaho, Michigan, Nevada, Oklahoma, Arkansas, Florida, Iowa, Illinois, Minnesota, Wisconsin, Indiana, Ohio, Pennsylvania, North Carolina, West Virginia, Delaware, Maryland, New York, New Jersey, Connecticut, Missouri, Virginia, Alabama, Utah, Wyoming, Montana, Arizona, New Mexico, Texas, Georgia, and Washington, for 180 days. SUPPORTING SHIPPERS: Ali Sharah Arabians, P.O. Box 61, 11561 Plaine Road, Eaton Rapids, Mich. 48827; Vasko Arabians, 500 Hereford Drive, Pickerington, Ohio 43147; Garda Farms Arabians, 5865 Post Road, Dublin, Ohio 43017; Foresight Farm, 6930 Babcock Road, Jeddo, Mich. 48032; Ackerman Arabians, Route 2, Box 155, Alliance, Nebr. 69301; Martin Cockriel, Route 1, Box 9A, Parker, Colo. 80134; Hemming Arabian Ranch, 2150 Alamo Pintado, Solvang, Calif. 93463; and Sho-On Arabians, 7920 Holiday Drive, NW., Olympia, Wash. 98502. SEND PROTESTS TO: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc. 73-21415 Filed 10-5-73;8:45 am]

[Notice No. 134]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 2, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 9279 (Sub-No. 7 TA), filed September 24, 1973. Applicant: C. P. CRASKA, INC., 207 Cosby Manor Road, Utica, N.Y. 13502. Applicant's representative: Murray J. S. Kirshtein, 118 Bleecker Street, Utica, N.Y. 13501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts, dairy products and meat packing house articles* as described in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (A) from Syracuse, N.Y., to points in New York; and (B) from Utica, N.Y., to points in New York (except points within a fifty mile radius of Utica, N.Y.), for 180 days. SUPPORTING SHIPPER: John Morrell & Co., Robert L. Lee, Manager/Rates & Services, 208 South La Salle Street, Chicago, Ill. SEND PROTESTS TO: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 104, 301 Erie Blvd. West, Syracuse, N.Y. 13202.

No. MC 119399 (Sub-No. 37 TA), filed September 24, 1973. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, Mo. 64801. Applicant's representative: David L. Sitton (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oat Products* (except in bulk), *packaged popcorn* (not popped), *grits or corn meal, foodstuffs* (except commodities in bulk, frozen foods, dairy products, meats, meat products), and *advertising materials*, from Cedar Rapids and Wall Lake, Iowa, to points in Arkansas, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee and Texas, for 180 days. SUPPORTING SHIPPER: National Oats Company, Inc., Cedar Rapids, Iowa 52402. SEND PROTESTS TO: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut St., Kansas City, Mo. 64106.

No. MC 123885 (Sub-No. 18 TA), filed September 24, 1973. Applicant: C AND R TRANSFER CO., 1315 West Blackhawk, Sioux Falls, S. Dak. 57104. Applicant's representative: James W. Olson, 506 West Boulevard, Rapid City, S. Dak. 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bentonite clay*, in bulk, from the plantsite of American Colloid Company at or near Belle Fourche, S. Dak., to Darr, Bothenburg, Mead, Schuyler, Grand Island, and Stanton, Nebr., and to Sterling and Crook, Colo., and (2) *Foundry moulding and sand treating compounds*, in bulk, from the plantsite of American Colloid Company at or near Belle Fourche, S. Dak., to Waterloo, Iowa, for 180 days. SUPPORTING SHIPPER: American Colloid Company, 5100 Suffield Court, Skokie, Ill. 60076. SEND PROTESTS TO: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 123744 (Sub-No. 12 TA), filed September 21, 1973. Applicant: BUTLER TRUCKING COMPANY, P.O. Box 88, Woodland, Pa. 16881. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, conduit, wrought iron or steel, fittings therefor, conduit pipe or tubing, welded steel*, not exceeding 4 inches O.D., unloaded by mechanical unloader furnished by the carrier, from the plantsite and facilities of Jones and Laughlin Steel Corporation at New Kensington, Pa., to points in Kentucky, Tennessee, Virginia, Michigan, New York, Illinois, Massachusetts, Rhode Island, Vermont, Connecticut, Maine, Maryland, Ohio, and Indiana, for 90 days. RESTRICTION: Restricted to traffic originating at said plantsite and destined to points in the destination area indicated. SUPPORTING SHIPPER: Jones and Laughlin Steel Corporation, 700 Constitution Boulevard, New Kensington, Pa. 15068. SEND PROTESTS TO: District Supervisor James C. Donaldson, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 125512 (Sub-No. 5 TA), filed September 25, 1973. Applicant: ELTON F. BURISH, Route No. 2, Box 58A, Marathon, Wis. 54448. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sawdust and shavings*, in bulk, from Northern Hardwoods Division, Copper Range Co., located on Highway 26 near South Range (Adams Township) Houghton County, Mich., to various points in Wisconsin; namely Brokaw, Green Bay, Kaukauna, Marshfield, Mosinee, Nekoosa, Rhinelander, Rothschild, Sheboygan Falls, Tomahawk, and Wausau, for 180 days. SUPPORTING SHIPPER: Copper Range Company, Northern Hardwoods Div/Copper Range Co., 300 West Memorial Ave., Houghton, Mich. 49931. SEND PROTESTS TO: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 126286 (Sub-No. 13 TA), filed September 24, 1973. Applicant: NIX TRANSPORTATION, INC., 335 West Queen, P.O. Box 721, Albany, Oreg. 97321. Applicant's representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Avenue, Portland, Oreg. 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, between points in Oregon and Washington, for 180 days. SUPPORTING SHIPPERS: There are approximately 21 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: District Supervisor A. E. Odoms, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 S. W. Pine, Portland, Oreg. 97204.

No. MC 129870 (Sub-No. 13 TA) (CORRECTION), filed September 6, 1973, published in the FEDERAL REGISTER issue of September 26, 1973, and republished as corrected this issue. Applicant: GAS INCORPORATED, 95 East Merrimack St., Lowell, Mass. 01853. Applicant's representative: Herbert A. Dubin, 1819 H St. NW., Washington, D.C.

NOTE.—The purpose of this partial republication is to show the correct MC number as No. MC 129870 (Sub-No. 13 TA) in lieu of No. MC 12970 (Sub-No. 13 TA) which was published in error. The rest of the application remains the same.

No. MC 133330 (Sub-No. 3 TA), filed September 25, 1973. Applicant: HALVOR LINES, INC., 325 Lake Avenue, Duluth, Minn. 55802. Applicant's representative: Andrew R. Clark, 1000 1st National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles, sportswear and trailers, and parts, supplies, accessories, and advertising and promotional materials* for snowmobiles and trailers (A) from ports of entry on the United States-Canada Boundary line adjacent to the Provinces of Ontario and Quebec, Canada; (B) from Duluth, Minn. and Idaho Falls, Idaho, to points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; and (C) from Idaho Falls, Idaho, to points in Montana, Wyoming, Colorado, and New Mexico, for 180 days. RESTRICTION: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Bombardier Corporation and Bombardier Limited. SUPPORTING SHIPPERS: Bombardier Corporation, 325 Lake Ave. S., Duluth, Minn., and Bombardier Limited, Valcourt, Quebec, Canada. SEND PROTESTS TO: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Bldg., & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 138514 (Sub-No. 6 TA), filed September 25, 1973. Applicant: ARCTICARE TRANSPORT, INC., 307 Hartford Pike, Shrewsbury, Mass. 01545. Applicant's representative: Chester G. Groebel, P.O. Box 356, Rockville, Conn. 06066. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Caribou, Presque Isle, and Washburn, Maine, to points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Michigan, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, Vermont, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPERS: Cyr Foods Inc., P.O. Box 160, Caribou, Maine; J-S Industries, Inc., P.O. Box 809, Presque Isle, Maine; and Taterstate Frozen Foods, Box 218, Washburn, Maine 04786. SEND PROTESTS TO: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 150 Causeway Street, Boston, Mass. 02114.

No. MC 139112 TA, filed September 24, 1973. Applicant: ROBERT A. WILLIAMSON, doing business as CALEX EXPRESS, INC., 149 Warden Avenue, Trucksville, Pa. 18708. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air distribution products*, between the plantsites of Anemostat Products Division, Dynamics Corporation of America, located at Scranton, Pa., and Los Angeles, Calif., and from the plantsite of Anemostat Products Division, Dynamics Corporation of America at Scranton, Pa., to Salt Lake City, Utah; San Francisco, Calif.; Seattle, Wash.; and Portland, Oreg., for 180 days. SUPPORTING SHIPPER: Anemostat Products Division, Dynamics Corporation of America D.I.P., P.O. Box 1083, Scranton, Pa. 18501. SEND PROTESTS TO: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of

Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 139117 TA, filed September 24, 1973. Applicant: STANLEY AMSDEN TRUCKING, General Delivery, Centerville, Mo. 63633. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Dent and Reynolds Counties, Mo., to points in Illinois, Indiana, and Ohio and Pennsylvania, for 180 days. SUPPORTING SHIPPER: Forest-Mill Industries, Inc., 11260 Southwest Highway, Palos Hills, Ill. 60465. SEND PROTESTS TO: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-21416 Filed 10-5-73;8:45 am]

CUMULATIVE LISTS OF PARTS AFFECTED—OCTOBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during October.

FEDERAL REGISTER PAGES AND DATE—OCTOBER

Pages	*Date*
27205–27272	Oct. 1
27273–27343	2
27345–27499	3
27501–27574	4
27575–27804	5
27805–27910	9

federal register

TUESDAY, OCTOBER 9, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 194

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

■

PROTECTION OF HUMAN SUBJECTS

PROPOSED POLICY

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 46]

PROTECTION OF HUMAN SUBJECTS

Proposed Policy

Notice is hereby given that the Secretary of Health, Education, and Welfare proposes to amend Subtitle A of the Department's regulations by adding a new Part 46 prescribing a policy on protection of human subjects applicable to activities supported by Department grants or contracts.

The proposed regulations would, with some changes, codify existing Department policy currently set forth in Chapter 1-40 of the DHEW Grants Administration Manual, as well as DHEW Publication No. (NIH) 72-102 (December 1, 1971). Among the changes made in the existing policy are the following: Section 46.2 would make it clear that it is the function of the organizational committee established under this part to determine whether subjects are at risk; § 46.4(c) would require that each assurance contain a provision under which the organization submitting the assurance would agree to notify DHEW immediately of emergent problems affecting the rights of human subjects, including adverse reactions; § 46.6(b) would set forth a number of requirements relating to the composition and functioning of the organizational committee; section 46.8 would prohibit the use of exculpatory language under which a subject would be made to waive or appear to waive any of his legal rights; §§ 46.11, 46.13, and 46.14 would require organizations receiving general, institutional-type assistance to certify that any activity involving human subjects has been reviewed and approved by the organization in accordance with this part; § 46.11 would require organizations to carry out reviews and approval of applications and proposals prior to submission to DHEW; §§ 46.20 and 46.21 would impose record keeping and reporting requirements; and § 46.22 would permit sanctions for failure to comply with the regulations.

In addition, DHEW through the National Institutes of Health, has appointed a special study group to review and recommend policies for the protection of human subjects in biomedical research. The study group is considering, among other things, the development of special procedures for the use of incompetents or prisoners in biomedical research, compensation of persons injured in clinical investigations, and a general review of the legal/ethical responsibilities in the conduct of such research. It is contemplated that the recommendations of the study group will be considered for inclusion in the DHEW regulations to be promulgated in this part.

Inquiries may be addressed and data, views, and arguments relating to the proposed regulations may be presented in writing, in triplicate, to the Chief, Institutional Relations Branch, Division of Research Grants, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014. All comments received will be available for inspection at the National Institutes of Health, Room 303, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland, weekdays (Federal holidays excepted) between the hours of 9:00 a.m. and 4:30 p.m. All relevant material received on or before November 8, 1973, will be considered.

Notice is also given that it is proposed to make any amendments that are adopted effective upon publication in the FEDERAL REGISTER.

Dated September 28, 1973.

CASPAR W. WEINBERGER,
Secretary.

It is therefore proposed to amend Subtitle A of Title 45 of the Code of Federal Regulations by adding the following new Part 46:

PART 46—PROTECTION OF HUMAN SUBJECTS

Sec.
46.1 Applicability.
46.2 Policy.
46.3 Definitions.
46.4 Submission of assurances.
46.5 Types of assurances.
46.6 Minimum requirements for general assurances.
46.7 Minimum requirements for special assurances.
46.8 Obligation to secure informed consent; prohibition of exculpatory clauses.
46.9 Documentation of informed consent.
46.10 Reserved.
46.11 Certification, general assurances.
46.12 Certification, special assurances.
46.13 Proposals lacking definite plans for the involvement of human subjects.
46.14 Proposals not submitted with the intent of involving human subjects.
46.15 Cooperative activities.
46.16 Investigational new drug number.
46.17 Implementation and revision of assurances.
46.18 Organization's executive responsibility.
46.19 Withholding of funds.
46.20 Organization's records.
46.21 Reports.
46.22 Early termination of awards; sanctions for noncompliance.
46.23 Conditions.

AUTHORITY.—5 U.S.C. 301.

§ 46.1 Applicability.

The regulations in this part are applicable to all Department of Health, Education, and Welfare grants and contracts supporting activities in which human subjects may be at risk.

§ 46.2 Policy.

(a) Safeguarding the rights and welfare of subjects at risk in activities supported under grants and contracts from DHEW is the principal responsibility of the organization which receives or is accountable to DHEW for the funds awarded for the support of the activity. In order to provide for the adequate discharge of this organizational responsibility, it is the policy of DHEW that no activity involving any human subjects at risk supported by a DHEW grant or contract shall be undertaken unless the organization has reviewed and approved such activity and submitted to DHEW a certification of such review and approval, in accordance with the requirements of this part.

(b) This review shall determine whether any human subjects are at risk and, if so, that the rights and welfare of the subjects involved are adequately protected, that the risks to an individual are outweighed by the potential benefits to him or by the importance of the knowledge to be gained, and that informed consent is to be obtained by methods that are adequate and appropriate.

(c) No grant or contract involving human subjects at risk will be awarded to an individual unless he is affiliated with or sponsored by an organization which can and does assume responsibility for the protection of the subjects involved.

§ 46.3 Definitions.

(a) "Organization" means any public or private institution or agency (including State and local governments).

(b) "Subject at risk" means any individual who may be exposed to the possibility of harm—physical, psychological, sociological, or other—as a consequence of participation as a subject in any research, development or demonstration activity which goes beyond the application of those established and accepted methods necessary to meet his needs.

(c) "Informed consent" includes the following basic elements:

(1) A fair explanation of the procedures to be followed, and their purposes, including identification of any procedures which are experimental;

(2) A description of the attendant discomforts and risks reasonably to be expected;

(3) A description of any benefits reasonably to be expected;

(4) A disclosure of any appropriate alternative procedures that might be advantageous for the subject;

(5) An offer to answer any inquiries concerning the procedures; and

(6) An instruction that the subject is free to withdraw his consent and to discontinue participation in the project or activity at any time.

(d) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(e) "DHEW" means the Department of Health, Education, and Welfare.

§ 46.4 Submission of assurances.

(a) Recipients or prospective recipients of DHEW assistance under a grant or contract involving subjects at risk shall provide written assurance acceptable to DHEW, that they will comply with DHEW policy as set forth in this part. Each assurance shall embody a statement of compliance with DHEW requirements for initial and continuing committee review of the supported activities; a set of implementing guidelines, including identification of the committee and a description of its review procedures; or, in the case of special assurances concerned with single projects or activities, a report of initial findings

and proposed continuing review procedures.

(b) Such assurance shall be executed by an individual authorized to act for the organization and to assume on behalf of the organization the obligations imposed by this part, and shall be filed in such form and manner as the Secretary may require.

(c) Each assurance shall contain a provision requiring the organization to give DHEW immediate notification under this part of emergent problems affecting the rights of human subjects, including adverse reactions to drugs, appliances, or other substances.

§ 46.5 Types of assurances.

(a) *General assurances.* A general assurance describes the review and implementation procedures applicable to all DHEW-supported activities conducted by an organization regardless of the number, location, or types of its components or field activities. General assurances will be required from organizations having a significant number of concurrent DHEW projects or activities involving human subjects.

(b) *Special assurances.* A special assurance will, as a rule, describe those review and implementation procedures applicable to a single project or activity. Special assurances will not normally be solicited or accepted from organizations which have acceptable general assurances on file with DHEW.

§ 46.6 Minimum requirements for general assurances.

The organization must include as part of its general assurance implementing guidelines that specifically provide for:

(a) The statement of principles which will govern the organization in the discharge of its responsibilities for protecting the rights and welfare of subjects. This may include appropriate existing codes or declarations, or statements formulated by the organization itself. It is to be understood that no such principles supersede DHEW policy or applicable law.

(b) A committee or committee structure which will conduct initial and continuing reviews in accordance with the policy outlined in § 46.2. Such committee structure or committee shall meet the following requirements:

(1) The committee must be composed of not less than five persons with varying backgrounds to assure complete and adequate review of projects and activities commonly conducted by the organization. The committee's membership, maturity, experience, and expertise must be such as to justify respect for its advice and counsel. In addition to possessing the professional competence to review specific activities, the committee must be able to determine the acceptability of the proposal in terms of the organization's commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. The committee must therefore include persons whose primary concerns lie in these areas rather than in the conduct of research, development, and service programs of the types supported by DHEW.

(2) The committee members shall be identified to DHEW by name, earned degrees, if any, position or occupation, representative capacity, or by other pertinent indications of experience such as board certification, licenses, etc. Thereafter, changes in committee membership shall be reported to DHEW in such form and at such times as the Secretary may require.

(3) No member of a committee shall be involved in either the initial or continuing review of an activity in which he has a conflicting interest, except to provide information requested by the committee.

(4) No committee or quorum of a committee shall consist entirely of employees of the organization.

(5) No committee or quorum of a committee shall be composed entirely of members of a single professional group or lay group.

(6) The quorum of the committee shall be defined, but may in no event be less than three members convened to carry out the committee's responsibilities under the assurance.

(c) The procedures which the organization will follow in its initial and continuing review of proposals and activities.

(d) The procedures which the committee will follow to provide advice and counsel to project and program directors with regard to the committee's actions, as well as its requirements for reporting adverse sections, emergent problems or proposed changes in a project or other activity.

(e) The procedures which the organization will follow to maintain an active and effective committee and to implement its recommendations.

§ 46.7 Minimum requirements for special assurances.

An acceptable special assurance shall:

(a) Identify the specific grant or contract involved by its number, if known; by its full title; and by the name of the project or program director, principal investigator, fellow, or other person immediately responsible for the conduct of the activity. The assurance shall be signed by a committee satisfying the requirements of § 46.6(b) and be executed by an appropriate organizational official.

(b) Describe the makeup of the committee and the training, experience, and background of its members;

(c) Contain the committee's description in general terms of those risks to the subject that it recognizes as inherent in the activity;

(d) Describe the consent procedures to be used and attach any consent statement(s) to be signed, heard, or read by the subject or responsible third parties;

(e) Outline the circumstances under which the director or investigator will be required to inform the committee of proposed changes in the activity, or of emergent problems involving human subjects;

(f) Indicate whether the director or investigator will be required to submit written reports, appear for interviews, or be visited by the committee or committees to provide for continuing review.

§ 46.8 Obligation to secure informed consent; prohibition of exculpatory clauses.

Any organization proposing to place any subject at risk is obligated to obtain and document informed consent. No informed consent, oral or written, obtained under an assurance provided pursuant to this part shall include any exculpatory language through which the subject is made to waive or to appear to waive, any of his legal rights, including any release of the organization or its agents from liability for negligence.

§ 46.9 Documentation of informed consent.

The actual procedure utilized in obtaining informed consent and the basis for committee determinations that the procedures are adequate and appropriate shall be fully documented. The documentation of consent will follow one of the following three forms:

(a) Provision of a written consent document embodying all of the basic elements of informed consent. This document is to be signed by the subject or his authorized representative. A sample of the document as approved by the committee is to be retained in its records.

(b) Provision of a "short" form written consent document indicating that the basic elements of informed consent have been presented orally to the subject or his authorized representative. Written summaries of what is to be said to the patient are to be approved by the committee. The "short" form is to be signed by the subject or his authorized representative and an auditor witness to the oral presentation and to the subject's signature. A copy of the approved summary, annotated to show any additions, is to be signed by the persons obtaining the consent on behalf of the organization and by the auditor witness. Sample copies of the consent form and of the summaries as approved by the committee are to be retained in its records.

(c) Modification of either of the primary procedures outlined in paragraphs (a) and (b) of this section. Granting of permission to use modified procedures imposes additional responsibility upon the review committee and the organization to establish that the risk to any subject is minimal, that use of either of the primary procedures for obtaining informed consent would surely invalidate objectives of considerable immediate importance, and that any reasonable alternative means for attaining these objectives would be less advantageous to the subject. The committee's reasons for permitting the use of modified procedures must be individually and specifically documented in the minutes and in reports of committee actions to the files of the organization. All such modifications must be approved by the committee in the minutes signed by the committee chairman. Approval of any such modifications should be regularly reconsidered as a function of continuing review and as

required for annual review, with documentation of reaffirmation, revision, or discontinuation as appropriate.

§ 46.10 [Reserved]

§ 46.11 Certification, general assurances.

(a) *Timely review.* All proposals involving human subjects submitted by organizations should be given review and approval prior to submission to DHEW. The proposal or application should be appropriately marked in the spaces provided on forms, or the following statement should be typed on the lower or right hand margin of the page bearing the name of the official authorized to sign or execute applications or proposals for the organization.

HUMAN SUBJECTS—REVIEWED AND APPROVED ON_____

The date of review and approval must be no later than the proposal submission date unless an extension of time is granted by the Secretary. In no event will review of the proposal by the DHEW operating agency concerned be completed until review by the organization has been certified.

(b) *Proposals not certified.* Proposals not properly certified, or submitted as not involving human subjects and found by the operating agency to involve human subjects, will be returned to the applicant institution.

(c) *Notification of DHEW where activities supported by institutional-type grants.* In those instances in which an organization receives general assistance (e.g., institutional-type grants) not requiring DHEW approval for specific expenditures, no activity involving human subjects shall be undertaken until the organization has submitted to DHEW: (1) A certification that the activity has been reviewed and approved in accordance with this part and (2) a detailed description of the proposed activity (including any protocol or similar document).

§ 46.12 Certification, special assurances.

Institutions not having accepted general assurances on file with the DHEW must submit a special assurance with each application or proposal involving human subjects. Such an assurance shall be considered to provide certification for the initial grant or contract period concerned. No additional documentation is required. If the terms of the grant or contract recommend additional years of support, but with periodic award or obligation of funds, any noncompeting renewal application or proposal shall be certified in the manner described in the preceding section.

§ 46.13 Proposals lacking definite plans for involvement of human subjects.

Certain types of proposals are submitted with the knowledge that subjects are to be involved within the project period, but definite plans for this involvement cannot properly be included in the proposal. These include (a) certain training grants where trainee projects remain to be selected, and (b) research, pilot, or developmental studies in which involvement depends upon such things as the completion of instruments, or of prior animal studies, or upon the purification of compounds. Such proposals should be reviewed and certified in the same manner as more definitive proposals but shall provide for resubmission to the organizational committee when definite plans have been completed if said plans involve the use of human subjects. Under such circumstances, in addition to complying with all other terms of the grant or contract, no activity involving the use of human subjects shall be undertaken until the organization has submitted to DHEW: (c) a certification that the activity has been reviewed and approved in accordance with this part after completion of definite plans and (d) a detailed description of the proposed activity (including any protocol or similar document). Where support is provided by project grants or contracts, subjects shall also not be involved prior to receipt of DHEW approval and in the case of contracts prior to any necessary negotiation and approval of an amended contract description of work.

§ 46.14 Proposals submitted with the intent of not involving human subjects.

If a proposal, at the time it is submitted to DHEW, does not anticipate involving or intend to involve human subjects, no certification should be submitted. In those instances, however, where it later becomes appropriate to use all or part of awarded funds for one or more activities which will involve subjects, each such activity shall be reviewed and approved in accordance with the assurance of the organization prior to the involvement of subjects. In addition, no such activity shall be undertaken until the organization has submitted to DHEW: (a) A certification that the activity has been reviewed and approved in accordance with this part and (b) a detailed description of the proposed activity (including any protocol or similar document). Where support is provided by project grants or contracts, subjects shall also not be involved prior to receipt of DHEW approval and in the case of contracts prior to negotiation and approval of an amended contract description of work.

§ 46.15 Cooperative activities.

Cooperative activities are those which involve organizations in addition to the grantee or prime contractor (such as a contractor under a grantee or a subcontractor under a prime contractor). In such instances the grantee or prime contractor may obtain access to all or some of the subjects involved through one or more cooperating organizations. Regardless of the distances involved and the nature of the cooperative arrangement, the basic DHEW policy applies and the grantee or prime contractor remains responsible for safeguarding the rights and welfare of the subjects.

(a) *Organization with general assurances.* Initial and continuing review by the organization may be carried out by one or a combination of procedures:

(1) Cooperating organization with accepted general assurances. When the cooperating organization has on file with DHEW an accepted general assurance, the grantee or contractor may carry out its own review or request the cooperating organization to conduct its own independent review and to report to the grantee's or contractor's committee the cooperating committee's recommendations on those aspects of the activity that concern individuals for whom the cooperating organization has responsibility in accordance with its own assurance. The grantee or contractor may, at its discretion, concur with or further restrict the recommendations of the cooperating organization. It is the responsibility of the grantee or contractor to maintain communication with the committees of the cooperating organization. However, the cooperating organization shall promptly notify the grantee or contracting organization whenever the cooperating organization finds the conduct of the project or activity within its purview unsatisfactory.

(2) Cooperating organization with no accepted general assurance. When the cooperating organization does not have an accepted general assurance on file with DHEW, it may submit a general or special assurance to DHEW which, if approved, will permit the grantee or contractor to follow the procedure outlined in the preceding subparagraph.

(3) Interinstitutional joint reviews. The grantee or contracting organization may wish to develop an agreement with cooperating organizations to provide for a review committee with representatives from cooperating organizations. Representatives of cooperating organizations may be appointed as ad hoc members of the grantee or contracting organization's existing review committee or, if cooperation is on a frequent or continuing basis as between a medical school and a group of affiliated hospitals, permanent appointments may be made. Under some circumstances component subcommittees may be established within cooperating organizations. All such cooperative arrangements must be accepted by DHEW as part of a general assurance, or as an amendment to a general assurance, or in unusual situations as a special assurance.

(b) *Organizations with special assurances.* While responsibility for initial and continuing review necessarily lies with the organization as defined in § 46.2, DHEW will also require acceptable assurances from those cooperating institutions having immediate responsibility for subjects.

(1) If the cooperating organization has on file with DHEW an accepted general assurance, the grantee or contractor shall request the cooperating organization to conduct its own independent review of those aspects of the project or activity which will involve human subjects for which it has immediate responsibility. Such a request shall be in writing and should provide for direct notification of the grantee's or contractor's

committee in the event that the cooperating organization's committee finds the conduct of the activity to be unsatisfactory.

(2) If the cooperating organization does not have an accepted general assurance on file with DHEW, it must submit a general or special assurance to DHEW which is determined by DHEW to comply with the provisions of this part.

§ 46.16 Investigational new drug number.

Where an organization is required to submit a certification under §§ 46.11, 46.12, 46.13, or 46.14, and the proposal involves an investigational new drug within the meaning of The Food, Drug and Cosmetic Act, the investigational new drug number issued by the Food and Drug Administration, DHEW, shall be included with said certification, provided, however, that in those cases in which the issuance of an investigational new drug number is pending, said certification shall include an assurance that such number will be forwarded upon receipt. In no event, shall DHEW award funds under a grant or contract until such number has been supplied.

§ 46.17 Implementation and revision of assurances.

The grantee or contracting organization's administration is accountable to DHEW for effectively carrying out the provisions of the assurance of the organization for the protection of human subjects as accepted and recognized by DHEW. Revision in the assurance of the organization, including the implementation procedures, are to be reported to and approved by DHEW prior to the date such revisions become effective. Revision without prior notification and approval may result in withdrawal of DHEW acceptance of the organization's assurance.

§ 46.18 Organization's executive responsibility.

Specific executive functions to be conducted by the administration of the organization include policy development and promulgation and continuing indoctrination of personnel. Appropriate administrative assistance and support shall be provided for the committee's functions. Implementation of the committee's recommendations through appropriate administrative action and follow-up is a condition of acceptance of an assurance. Committee approvals and favorable actions and recommendations are subject to review and to disapproval or further restriction by the organization officials. Committee disapprovals, restrictions, or conditions cannot be rescinded or removed except by action of the committee or another appropriate review group as described and accepted in the assurance filed with DHEW.

§ 46.19 Withholding of funds.

Under no circumstances shall an activity involving subjects at risk be implemented with DHEW funds until said activity is reviewed and approved by organizational committee and a certification of such review and approval submitted to DHEW in accordance with this part. In addition, the organization staff responsible for such activity shall not proceed therewith until they have received notification of such approval, including any restrictive requirements made by the committee or the administration. They shall also be informed and reminded of their continuing responsibility to bring to the attention of the committee any proposed significant changes in project or activity plans or any emergent problems that will affect subjects. Where continuing review of projects involves the channels of administrative authority in the organization, notification of committee actions should be sent through these channels. Establishment of mechanisms for consultation and appeal by investigators and subjects may be an important condition of acceptance of an assurance by DHEW.

§ 46.20 Organization's records.

(a) Copies of all documents presented or required for initial and continuing review by the organization's review committee and minutes, transmittals on actions, instructions, and conditions resulting from review committee deliberations addressed to the activity director are to be made part of the official organizational files for the supported activity.

(b) Records of subjects' consent shall be retained by the organization or organizational component in accordance with its established practice, or, if no practice has been established, in project files.

(c) Acceptance of any DHEW grant or contract award shall constitute the consent of the grantee or contracting organization to inspection and audit of records required under this part by authorized representatives of the Secretary.

(d) All documents and other records required under this part must be retained by the grantee or contracting organization for a minimum of three years following termination of DHEW support of the activity.

§ 46.21 Reports.

Each organization with an approved assurance shall provide the Secretary with such reports and other information as the Secretary may from time to time prescribe.

§ 46.22 Early termination of awards; sanctions for noncompliance.

(a) If, in the judgment of the Secretary, an organization has failed to comply with the terms of this policy with respect to a particular DHEW grant or contract, he may require that said grant or contract be terminated or suspended in the manner prescribed in applicable grant or procurement regulations.

(b) If, in the judgment of the Secretary, an organization fails to discharge its responsibilities for the protection of the rights and welfare of the subjects in its care, whether or not DHEW funds are involved, he may, upon reasonable notice to the organization of the basis for such action, determine that its eligibility to receive further DHEW grants or contracts involving human subjects shall be terminated. Such disqualification shall continue until it is shown to the satisfaction of the Secretary that the reasons therefor no longer exist.

(c) If, in the judgment of the Secretary, an individual serving as principal investigator, program director, or other person having responsibility for the scientific and technical direction of a project or activity, has failed to discharge his responsibilities for the protection of the rights and welfare of human subjects in his care, the Secretary may, upon reasonable notice to the individual of the basis for such action, determine that such individual's eligibility to serve as a principal investigator or program director or in another similar capacity shall be terminated. Such disqualification shall continue until it is shown to the satisfaction of the Secretary that the reasons therefor no longer exist.

§ 46.23 Conditions.

The Secretary may with respect to any grant or contract or any class of grants or contracts impose conditions, including conditions pertaining to informed consent, prior to or at the time of any award when in his judgment such conditions are necessary for the protection of human subjects.

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PART III

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Low-Rent Public Housing

■

HOMEOWNERSHIP OPPORTUNITIES

Title 24—Housing and Urban Development

CHAPTER VIII—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (LOW RENT PUBLIC HOUSING)

[Docket No. R-73-218]

PART 1270—LOW RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

Notice was given on November 4, 1972, 37 FR 23553, that the Department of Housing and Urban Development was amending Title 24 of the Code of Federal Regulations by adding a new Chapter VIII "Department of Housing and Urban Development (Low Rent Public Housing)" and adding a new Part 1270 "Low Rent Housing Homeownership Opportunities" under that chapter, and stating that parts 1200 through 1269 and 1271 through 1299 were being reserved.

The purpose of Part 1270 is to set forth the essential elements of the HUD Homeownership Opportunities Program for Low-Income Families (Turnkey III) under which local housing authorities (LHA's) are providing low-income families with an opportunity to become homeowners through Federal assistance in the form of annual contributions to the LHA.

The Department has given consideration to the many comments which were received, and many changes and improvements have been incorporated in the regulations now being adopted. The principal changes are set forth below.

1. An important clarification in § 1270.104(b)(2) is that the admission income limits for a Turnkey III project may exceed those for the LHA's conventional rental projects, as long as the Turnkey III limits are in accord with all applicable statutory and administrative requirements and are approved by HUD. The structure of the program enables an LHA to admit some families who have potential for homeownership even though their required monthly payment would be less than the break-even amount so long as other higher income families are admitted, so that the average monthly payment for the project is at least 10 percent more than the break-even amount for the project.

2. It is now required under § 1270.104 (a) that the LHA shall comply with the affirmative Fair Housing Marketing Regulations in the same manner as if the LHA were an applicant for participation in an FHA Housing program, including the submission of a Fair Housing Marketing Plan, which requires HUD approval.

3. A new § 1270.104(e)(2) sets out minimum standards for determining potential for homeownership, to aid LHAs in the screening of applicants for Turnkey III. These are (a) sufficient income to result in a monthly payment high enough to cover the Earned Home Payments Account, Nonroutine Maintenance Reserve, and estimated cost of utilities, (b) ability to meet all the homebuyer obligations under the Agreement, and (c) at least one member gainfully employed, or having an established source of continuing income.

4. There are several changes in § 1270.104(h) setting forth conditions of eligibility for continued occupancy. It is now provided that the homebuyer shall cease to be eligible for continued occupancy with the aid of HUD annual contributions when his adjusted monthly income has reached the level at which the current amount of his required monthly payment equals or exceeds the monthly housing costs. This replaces the former standard of 20 percent of his monthly income. An amount for insurance is now included in the computation of the monthly housing cost; however, the amount for nonroutine maintenance has been deleted, since the balance of the Nonroutine Maintenance Reserve goes to the homebuyer when he acquires title to the Home.

5. A provision has been added, § 1270.107(f), prohibiting the homebuyer and his family from interfering with rights of other occupants of the development, damaging the common property or the property of others, or creating physical hazards.

6. The general rule that the required monthly payment shall be based upon the homebuyer's family income is continued. However, provision has been added to § 1270.107(j)(1) establishing a ceiling amount equal to the breakeven amount plus debt service, unless the rent of comparable unsubsidized housing is lower, in which case such lower amount may be established.

7. In computing the monthly cost for routine maintenance (and therefore the monthly credit to the Earned Home Payments Account or EHPA), the LHA will be required under § 1270.110(a) to take into consideration the relative type and size of the unit.

8. In order for a homebuyer to earn the certificate entitling him to exercise the option to buy, he will have to achieve, within the first two years, a balance in his EHPA equal to 20 times the amount of his monthly EHPA credit, rather than a flat dollar amount. Also, in order to achieve this certificate, § 1270.110(c)(1) now provides that the homebuyer must be meeting all his obligations under the Agreement and satisfactorily performing his responsibilities to the Homebuyers Association.

9. Section 1270.111 dealing with the Nonroutine Maintenance Reserve has been revised in the following way: To the extent that the need for repairs is due to the homebuyer's fault or negligence, the cost will be charged to his EHPA; to the extent that it is due to normal wear and tear the cost will be charged to the NRMR; to the extent that it is due to a construction defect, the LHA will collect under warranty if it can, or the cost will be paid for out of operating reserve unless the situation was covered by warranty which could not be enforced because of the negligence of the homebuyer. This change provides a more equitable treatment of the cost of repairs which were not the fault of the homebuyer, but at the same time insures that the homebuyer will be held responsible for his own damage and/or negligence.

10. Because there has been a tendency toward the budgeting of insufficient amounts for the Nonroutine Maintenance Reserve, § 1270.111(a) now requires that LHAs shall establish a nonroutine maintenance schedule and provides a definite procedure to assist them in making a realistic estimate of the monthly amount to be provided for the NRMR.

11. Determining the purchase price has been clarified by a two step procedure which also provides under § 1270.113(a) that in apportioning the Total Development Cost for Homebuyers to each unit, apportionment will be made in accordance with the appraised value of each unit.

12. In § 1270.107(g) specific criteria have been set forth to guide LHAs in determining when structural changes or additions may be approved. The Homebuyers Ownership Opportunity Agreement now spells out that any such changes or additions, if approved, shall be at the homebuyer's expense, and that if he should move before acquiring title to the Home he will not be paid on account of the changes or additions.

13. Section 1270.107(l) regarding survivorship has been clarified to specify that the person designated may be the successor only if he or she was an occupant of the home at the time of death or other stated event and meets the standards of potential for homeownership. Where there is no such designation or the designee is no longer an occupant of the home or does not meet the standards of potential for homeownership, the LHA may consider as the homebuyer any family member who was an occupant at the time of the event and who meets the standards of potential for homeownership.

14. There are two significant changes in § 1270.107(m) regarding termination by LHA. First, consultation with the HBA is not required to take place as a pre-condition of issuing the 30 day notice but such consultation is required during the 30 day notice period. The second change is that if the homebuyer is determined by the LHA to no longer meet the test of homeownership potential, the LHA can effect a transfer to a conventional rental unit, if there is one available.

15. In connection with the provision for recapture of profit in the event of resale by a homebuyer within five years after he acquires title, § 1270.114 now provides for the refund of any recaptured amounts in the event he purchases another home within a stated period.

16. Subpart C of the Regulation dealing with Homeownership Counseling and Training, now spells out in greater detail the planning, budgeting, and use of the $500 per unit funds for this purpose, and this subpart specifically requires that a reasonable portion of the funds be kept in reserve for costs during the management stage including counseling and training of subsequent homebuyers.

17. The role of the Homebuyers Association is emphasized in § 1270.303(a) by the requirement that election of permanent directors and officers shall take place when 60 percent of the home-

buyers are in occupany but in any event no later than one year from the date that the first home is occupied. In addition, the provisions for the funding of establishment and operation of the HBA have been clarified.

18. Section 1270.101(b)(1) now provides that a Turnkey III Project may include only homeownership opportunity units, to be occupied under Homebuyers Ownership Opportunity Agreements. There is to be no mixing of units, some Turnkey III, and some conventional rental, within the same Project. If for any reason it is determined that certain units should be operated as conventional rental units, such units must comprise or be made part of a conventional rental project.

19. With respect to developments where Agreements with Homebuyers have already been signed prior to the issuance of this Regulation, all qualified participants will be offered, under § 1270.101(b)(3), new Homebuyers Ownership Opportunity Agreements to replace their old ones. These new Agreements will be in accordance with the standard form under the new Regulation, except that if the term of the Annual Contributions Contract under the old Agreement was 25 years, it will be the same under the new Agreement.

The Secretary has determined that the public interest would best be served by making this Regulation effective immediately so as to avoid unnecessary delay in its implementation. Therefore, the Secretary finds that good cause exists for making these Regulations effective upon publication in the FEDERAL REGISTER.

Effective date.—This regulation shall become effective October 9, 1973.

JAMES T. LYNN,
Secretary of Housing and Urban Development.

Accordingly, Title 24 is amended as follows:

1. A new Chapter VIII, entitled "Department of Housing and Urban Development (Low Rent Public Housing)," is added.

2. Parts 1200 through 1269 and 1271 through 1299 are being reserved.

3. A new Part 1270, entitled "Low Rent Housing Homeownership Opportunities," is added to Chapter VIII to read as set forth hereinafter.

PART 1270—LOW-RENT HOUSING HOMEOWNERSHIP OPPORTUNITIES

Subpart A—Introduction to Low-Rent Housing Ownership Opportunity Program [Reserved]

Subpart B—Turnkey III Program Description

§ 1270.101 Introduction.

(a) *Purpose.* This subpart sets forth the essential elements of the HUD Homeownership Opportunities Program for Low-Income Families (Turnkey III).

(b) *Applicability.* This subpart shall be applicable to all Turnkey III developments, including those under development or in operation on the effective date of this subpart, as follows:

(1) With respect to any development to be operated as Turnkey III, the Annual Contributions Contract (ACC) shall contain the "Special Provisions for Turnkey III Homeownership Opportunity Project" as set forth in Appendix I. A Turnkey III development may include only units which are to be operated as such under Homebuyers Ownership Opportunity Agreements. If for any reason it is determined that certain units should be operated as conventional rental units, such units must comprise or be made part of a conventional rental project.

(2) With respect to Turnkey III developments pursuant to an executed ACC where no Agreements with Homebuyers have been signed, the ACC shall be amended (i) to include the "Special Provisions" set forth in Appendix I, (ii) to extend its term to 30 years, and (iii) to reduce its Maximum Contribution Percentage to a rate that will amortize the debt in 30 years at the minimum Loan Interest Rate specified in the ACC for the specific Turnkey III project involved. Further development and operation shall be in accordance with this Subpart including use of the form of Homebuyers Ownership Opportunity Agreement set forth in Appendix II.

(3) With respect to developments where Agreements with Homebuyers have been signed, the following steps shall be taken:

(i) The ACC shall be amended to include the Special Provisions" set forth in Appendix I; further development and operation of the Project shall be in accordance with this subpart.

(ii) The LHA shall offer all qualified homebuyers in the development a new Homebuyers Ownership Opportunity Agreement as set forth in Appendix II with an amendment to section 16a to refer to "the latest approved Development Cost Budget, or Actual Development Cost Certificate if issued," in lieu of "the Development Cost Budget in effect upon award of the Main Construction Contract or execution of the Contract of Sale," and, if the ACC for the Project has a term of 25 years, an amendment to section 16(b) to refer to a term of 25 years, instead of 30, for the Purchase Price Schedule. Each Purchase Price Schedule shall commence with the first day of the month following the effective date of the initial Agreement. No other modification in the new Agreement may be made. In the event the homebuyer refuses to accept the new Agreement, no modifications may be made in the old Agreement and the matter shall be referred to HUD.

(4) With respect to Projects which were under ACC on the effective date of this subpart, the Total Development Cost Budget shall be revised, if financially feasible, to include the cost of the appraisals which are necessary for computation of the initial purchase prices pursuant to § 1270.113. In the event this is not financially feasible, the matter shall be referred to HUD, which may, if necessary, authorize a different method for computation of such initial purchase prices on an equitable basis.

(5) With respect to all developments which were completed by the effective date of this subpart, the appraisals which are necessary for computation of the initial purchase prices pursuant to § 1270.113 shall be made as of the date of completion of the development.

§ 1270.102 Definitions.

(a) The term "common property" means the nondwelling structures and equipment, common areas, community facilities, and in some cases certain component parts of dwelling structures, which are contained in the development.

(b) The term "development" means the entire undertaking including all real and personal property, funds and reserves, rights, interests and obligations, and activities related thereto.

(c) The term "EHPA" means the Earned Home Payments Account established and maintained pursuant to § 1270.110.

(d) The term "homebuyer" means the member or members of a low-income family who have executed a Homebuyers Ownership Opportunity Agreement with the LHA.

(e) The term "homebuyers association" (HBA) means an organization as defined in § 1270.106.

(f) The term "homeowner" means a homebuyer who has acquired title to his home.

(g) The term "homeowners association" means an association comprised of homeowners, including condominium associations, having responsibilities with respect to common property.

(h) The term "HUD" means the Department of Housing and Urban Development which provides the LHAs with financial assistance through loans and annual contributions and technical assistance in development and operation.

(i) The term "LHA" means the local housing authority which acquires or develops a low-rent housing development with financial assistance from HUD, owns the homes until title is transferred to the homebuyers, and is responsible for the management of the homeownership opportunity program.

(j) The term "NRMR" means the Nonroutine Maintenance Reserve established and maintained pursuant to § 1270.111.

(k) The term "Project" is used to refer to the development in relation to matters specifically related to the Annual Contributions Contract.

§ 1270.103 Development.

(a) *Financial framework.* The LHA shall finance development or acquisition by sale of its notes (bond financing shall not be used) in the amount of the Minimum Development Cost. Payment of the debt service on the notes is assured by the HUD commitment to provide annual contributions.

(b) *Contractual framework.* There are three basic contracts:

(1) An Annual Contributions Contract containing "Special Provisions For Turnkey III Homeownership Opportunity Project," Form HUD-53010C (see Appendix I);

(2) A Homebuyers Ownership Opportunity Agreement (see Appendix II) which sets forth the respective rights and obligations of the low-income occupants and the LHA, including conditions for achieving homeownership; and

(3) A Recognition Agreement (see Appendix II of subpart C of this part) between the LHA and the HBA under which the LHA agrees to recognize the HBA as the established representative of the homebuyers.

(c) *Community Participation Committee (CPC).* In the necessary development of citizens' participation and and understanding of the Turnkey III program, the LHA should consider formation and use of a CPC to assist the community and the LHA in the development and suport of the Turnkey III program. The CPC shall be a voluntary group comprised of representatives of the low-income population primarily and may also include representatives of community service organizations.

§ 1270.104 Eligibility and selection of homebuyers.

(a) *Announcement of availability of housing; fair housing marketing.* (1) The availability of housing under Turnkey III shall be announced to the community at large. Families on the waiting list for LHA conventional rental housing who wish to be considered for Turnkey III must apply specifically for that program (see paragraph (d) of this section).

(2) The LHA shall submit to HUD an Affirmative Fair Housing Marketing Plan and shall otherwise comply with the provisions of the Affirmative Fair Housing Marketing Regulations, 24 CFR Part 200, subpart M, as if the LHA were an applicant for participation in an FHA housing program. This Plan shall be submitted with the development program, and no development program may be approved without prior approval of the Plan pursuant to HUD procedures under said Affirmative Fair Housing Marketing Regulations. If the development program has been approved, but the Annual Contributions Contract has not been executed, prior to the effective date of this subpart, an Affirmative Fair Housing Marketing Plan must be approved prior to execution of said contract.

(b) *Eligibility and standards for admission.* (1) Homebuyers shall be low-income families as determined in accordance with the income definitions and limits established by the LHA and approved by HUD (see paragraph (6) (2) of this section). The HUD-approved standards for admission to low-rent housing, including the LHA's established priorities and preferences and the requirements for administration of low-rent housing under Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241, 42 U.S.C. 2000d), shall be applicable except that the procedures used for homebuyer selection under Turnkey III shall be those set forth in this section. In carrying out these procedures the aim shall be to provide for equal housing opportunity in such a way as to prevent segregation or other discrimination on the basis of race, creed, color or national origin in accordance with the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241, 42 U.S.C. 2000d) and 1968 (Public Law 90-284, 82 Stat. 73; 42 U.S.C. 3601).

(2) An LHA may establish income limits for Turnkey III which are different from those for its conventional rental program, provided that those limits are in accord with all applicable statutory and administrative requirements and are approved by HUD.

(c) *Determination of eligibility and preparation of list.* The LHA, without participation of a recommending committee (see paragraph (e) (1) of this section), shall determine the eligibility of each applicant family in respect to the income limits for the development and shall then assign each eligible applicant his appropriate place on a waiting list for the development, in sequence based upon the date of the application, suitable type or size of unit and factors affecting preference or priority established by the LHA's regulations.

(d) *List of applicants.* A separate list of applicants for Turnkey III shall be maintained, consisting of families who specifically apply and are eligible for admission to such housing.

(1) *Dating of applications.* All applications for Turnkey III shall be dated as received.

(2) *Effect on applicant status.* The filing of an application for Turnkey III by a family which is an applicant for LHA conventional rental housing or is an occupant of such housing shall in no way affect its status with regard to such rental housing. Such an applicant shall not lose his place on the rental housing waiting list until his application is accepted for Turnkey III and shall not receive any different treatment or consideration with respect to conventional rental housing because of having applied for Turnkey III.

(e) *Determination of potential for homeownership.* — (1) *Recommending committee.* The LHA should consider use of a recommending committee to assist in the establishment of objective criteria for the determination of potential for homeownership and in the selection of homebuyers from the families determined to have such potential. If a recommending committee is used, it should be composed of representatives of the CPC (if any), the LHA and the HBA. The LHA shall submit to the committee prompt written justification of any rejection of a committee recommendation, stating grounds, the reasonableness of which shall be in accord with applicable LHA and HUD regulations. Each member of such a committee, at the time of appointment, shall be required to furnish the LHA with a signed statement that the member will (i) follow selection procedures and policies that do not automatically deny admission to a particular class, that insure selection on a nondiscriminatory and nonsegregated basis, and that facilitate achievement of the anticipated results for occupancy stated in the approved Affirmative Fair Housing Marketing Plan, and (ii) maintain strict confidentiality by not divulging any information concerning applicants or the deliberations of the committee to any person except to the LHA as necessary for purposes of the official business of the committee.

(2) *Potential for homeownership.* In order to be considered for selection, a family must be determined to meet at

least all of the following standards of potential for homeownership:

(i) Income sufficient to result in a required monthly payment which is not less than the sum of the amounts necessary to pay the EHPA, the NRMR, and the estimated average monthly cost of utilities attributable to the home;

(ii) Ability to meet all the obligations of a homebuyer under the Homebuyers Ownership Opportunity Agreement;

(iii) At least one member gainfully employed, or having an established source of continuing income.

(f) *Selection of homebuyers.* Homebuyers shall be selected from those families determined to have potential for homeownership. Such selection shall be made in sequence from the waiting list established in accordance with this section, provided that the following shall be assured:

(1) Selection procedures that do not automatically deny admission to a particular class; that insure selection on a nondiscriminatory and nonsegregated basis; and that facilitate achievement of the anticipated results for occupancy stated in the approved Affirmative Fair Housing Marketing Plan.

(2) Achievement of an average monthly payment for the Project, including consideration of the availability of the Special Family Subsidy, which is at least 10 percent more than the break-even amount for the Project (see § 1270.108). This standard shall be complied with both in the initial selection of homebuyers and in the subsequent filling of vacancies at all times during the life of the Project. If there is an applicant who has potential for homeownership but whose required monthly payment under the LHA's Rent Schedule would be less than the break-even amount for the suitable size and type of unit, such applicant may be selected as a homebuyer, provided that the incomes of all selected homebuyers shall result in the required average monthly payment of at least 10 percent more than the break-even amount for the Project. Such an average monthly payment for the Project may be achieved by selecting other low-income families who can afford to make required monthly payments substantially above the break-even amounts for their suitable sizes and types of units.

(g) *Notification to applicants.* (1) Once a sufficient number of applicants have been selected to assure that the provisions of paragraph (f)(2) of this section are met, the selected applicant shall be notified of the approximate date of occupancy insofar as such date can reasonably be determined.

(2) Applicants who are not selected for a specific Turnkey III development shall be so notified in accordance with HUD-approved procedure. The notice shall state the reason for the applicant's rejection (including a nonrecommendation by the recommending committee unless the applicant has previously been so notified by the committee) and the notice shall state that the applicant will be given an informal hearing on such determination, regardless of the reason for the rejection, if he makes a request for such a hearing within a reasonable time (to be specified in the notice) from the date of the notice.

(h) *Eligibility for continued occupancy.* (1) A homebuyer shall cease to be eligible for continued occupancy with the aid of HUD annual contributions when the LHA determines that his adjusted monthly income has reached the level, and is likely to continue at such level, at which the current amount of his required monthly payment equals or exceeds the monthly housing cost (see paragraph (h)(2) of this section). In such event, if the LHA determines, with HUD approval, that suitable financing is available, the LHA shall notify the homebuyer that he shall either (i) purchase the home or (ii) move from the development; provided, however, that if the LHA determines that, due to special circumstances, the homebuyer is unable to find decent, safe and sanitary housing within his financial reach although making every reasonable effort to do so, the homebuyer may be permitted to remain for the duration of such a situation if he pays an increased monthly payment consistent with his adjusted monthly income; provided that this monthly payment shall not exceed the maximum provided in § 1270.107(j)(1). Such an increased monthly payment shall also be payable by the homebuyer if he continues in occupancy without purchasing the home because suitable financing is not available.

(2) The term "monthly housing cost," as used in this paragraph, means the sum of: (i) The monthly debt service amount shown on the Purchase Price Schedule (except where the homebuyer can purchase the home by the method described in § 1270.113(c)(1) below): (ii) one-twelfth of the annual real property taxes which the homebuyer will be required to pay as a homeowner; (iii) one-twelfth of the annual premium attributable to fire and extended coverage insurance carried by the LHA with respect to the home; (iv) the current monthly per unit amount budgeted for routine maintenance (EHPA), and for routine maintenance-common property; and (v) the current LHA and HUD approved monthly allowance for utilities paid for directly by the homebuyer plus the monthly cost of utilities supplied by the LHA.

§ 1270.105 Counseling of homebuyers.

The LHA shall provide counseling and training as provided in subpart C of this part, with funding as provided in § 1270.206 of this part. Applicants for admission shall be advised of the nature of the counseling and training program available to them and the application for admission shall include a statement that the family agrees to participate and cooperate fully in all official pre-occupancy and post-occupancy training and counseling ativities. Failure to participate as agreed may result in the family not being selected or retained as a homebuyer.

§ 1270.106 Homebuyers Association (HBA).

An HBA is an incorporated organization composed of all the families who are entitled to occupancy pursuant to a Homebuyers Ownership Opportunity Agreement or who are homeowners. It is formed and organized for the purposes set forth in § 1270.304 of this part. The HBA shall be funded as provided in § 1270.305 of this part. In the absence of a duly organized HBA, the LHA shall be free to act without the HBA action required by this subpart.

§ 1270.107 Responsibilities of homebuyer.

(a) *Repair, maintenance and use of home.* The homebuyer shall be responsible for the routine maintenance of the home to the satisfaction of the HBA and the LHA. This routine maintenance includes the work (labor and materials) of keeping the dwelling structure, grounds and equipment in good repair, condition and appearance so that they may be utilized continually at their designed capacities and at the satisfactory level of efficiency for their intended purposes, and in conformity with the requirements of local housing code and applicable regulations and guidelines of HUD. It includes repairs (labor and materials) to the dwelling structure, plumbing fixtures, dwelling equipment (such as range and refrigerator), shades and screens, water heater, heating equipment and other component parts of the dwelling. It also includes all interior painting and the maintenance of grounds (lot) on which the dwelling is located. It does not include maintenance and replacements provided for by the NRMR described in § 1270.111.

(b) *Repair of damage.* In addition to the obligation for routine maintenance, the homebuyer shall be responsible for repair of any damage caused by him, members of his family, or visitors.

(c) *Care of home.* A homebuyer shall keep the home in a sanitary condition; cooperate with the LHA and the HBA in keeping and maintaining the common areas and property, including fixtures and equipment, in good condition and appearance; and follow all rules of the LHA and of the HBA concerning the use and care of the dwellings and the common areas and property.

(d) *Inspections.* A homebuyer shall agree to permit officials, employees, or agents of the LHA and of the HBA to inspect the home at reasonable hours and intervals in accordance with rules established by the LHA and the HBA.

(e) *Use of home.* A homebuyer shall not (1) sublet the home without the prior written approval of the LHA and HUD, (2) use or occupy the home for any unlawful purpose nor for any purpose deemed hazardous by insurance companies on account of fire or other risks, or (3) provide accommodations (unless approved by the HBA and the LHA) to boarders or lodgers. The homebuyer shall agree to use the home only as a place to live for the family (as identified in the

initial application or by subsequent amendment with the approval of the LHA), for children thereafter born to or adopted by members of such family, and for aged or widowed parents of the homebuyer or spouse who may join the household.

(f) *Obligations with respect to other persons and property.* Neither the homebuyer nor any member of his family shall interfere with rights of other occupants of the development, or damage the common property or the property of others, or create physical hazards.

(g) *Structural changes.* A homebuyer shall not make any structural changes in or additions to the home unless the LHA has first determined in writing that such change would not (1) impair the value of the unit, the surrounding units, or the development as a whole, or (2) affect the use of the home for residential purposes, or (3) violate HUD requirements as to construction and design.

(h) *Statements of condition and repair.* When each homebuyer moves in, the LHA shall inspect the home and shall give the homebuyer a written statement, to be signed by the LHA and the homebuyer, of the condition of the home and the equipment in it. Should the homebuyer vacate the home, the LHA shall inspect it and give the homebuyer a written statement of the repairs and other work, if any, required to put the home in good condition for the next occupant (see § 1270.13). The homebuyer, his representative, and a representative of the HBA may join in any such inspections by the LHA.

(i) *Maintenance of common property.* The homebuyer may participate in nonroutine maintenance of his home and in maintenance of common property as discussed in § 1270.110(d) and § 1270.111(c).

(j) *Homebuyer's required monthly payment.* (1) The term "required monthly payment" as used herein means the monthly payment the homebuyer is required to pay as lease rental to the LHA on or before the first day of each month. Although the total monthly housing cost consists of the sum of the breakeven amount (see § 1270.108) and the debt service (payments of principal and interest) on the applicable share of the capital cost of the development, the homebuyer, so long as he qualifies as low income, is not required to pay the full amount, but is assisted by HUD annual contributions. The homebuyer's required monthly payment, which is based upon his income, shall be an amount in accordance with the schedule established by the LHA and approved by HUD in accordance with the U.S. Housing Act of 1937 (P.L. 412, 75th Cong., 50 Stat. 888, 42 U.S.C. 1401 et seq.), taking into account a monthly allowance for those utilities which the homebuyer pays for directly computed in accordance with HUD requirements; provided, however, that the maximum required monthly payment, including any monthly allowance for utilities, shall be the sum of the monthly breakeven amount plus the monthly debt service amount shown on the Purchase Price Schedule for the home, except that if the rent, including utilities, for comparable unsubsidized housing in the locality is lower, such lower amount may be established as the maximum if the LHA determines with HUD approval that this would be in the best interest of the project.

(2) The required monthly payment may be adjusted as a result of the LHA's regularly scheduled or specially scheduled reexamination of the family income and composition. Interim changes may be made in accordance with the LHA's policy on reexaminations, or under unusual circumstances, at the request of the homebuyer, if both the LHA and the HBA agree that such action is warranted.

(3) The required monthly payment may also be adjusted by changes in the required percentage of income to reflect (i) changes in operating expense as described in § 1270.109 and (ii) changes in utility allowances.

(4) The LHA shall not refuse to accept monthly payments because of any other charges (i.e., other than overdue monthly payments) owned by the homebuyer to the LHA; however, by accepting monthly payments under such circumstances, the LHA shall not be deemed to have waived any of its rights and remedies with respect to such other charges.

(k) *Application of monthly payment.* The LHA shall apply the homebuyer's monthly payment as follows:

(1) To the credit of the homebuyer's EHPA (see § 1270.110);

(2) To the credit of the homebuyer's NRMR (see § 1270.111); and

(3) For payment of monthly operating expense including contribution to operating reserve (see § 1270.109).

(l) *Assignment and survivorship.* Until such time as the homebuyer obtains title to the home, it shall be used only to house a family of low income. Therefore:

(1) A homebuyer shall not assign any right or interest in the home or under the Homebuyers Ownership Opportunity Agreement without the prior written approval of the LHA and HUD;

(2) In the event of death, mental incapacity or abandonment of the family by the homebuyer, the person designated as the successor in the Homebuyers Ownership Opportunity Agreement shall succeed to the rights and responsibilities under the Agreement if that person is an occupant of the home at the time of the event and is determined by the LHA to meet all of the standards of potential for homeownership as set forth in § 1270.104 (e)(2). Such person shall be designated by the homebuyer at the time the Homebuyers Ownership Opportunity Agreement is executed. This designation may be changed by the homebuyer at any time. If there is no such designation or the designee is no longer an occupant of the home or does not meet the standards of potential for homeownership, the LHA may consider as the homebuyer any family member who was an occupant at the time of the event and who meets the standards of potential for homeownership. If there is no qualified successor in accordance with this paragraph, the LHA shall terminate the Agreement and another family shall be selected.

(m) *Termination by LHA.* (1) In the event the homebuyer should breach the Homebuyers Ownership Opportunity Agreement by failure to make the required monthly payment within ten days after its due date, by misrepresentation or withholding of information in applying for admission or in connection with any subsequent reexamination of income and family composition, or by failure to comply with any of the other homebuyer obligations under the Agreement, the LHA may terminate the Agreement 30 days after giving the homebuyer notice of its intention to do so in accordance with paragraph (m)(3) of this section.

(2) In the event the LHA determines that the homebuyer no longer meets the standards of potential for homeownership as set forth in § 1270.104(e)(2), and that a suitable dwelling is available for immediate occupancy in an LHA rental project, the LHA may terminate the Agreement and offer the homebuyer such dwelling, such termination to occur 30 days after giving the homebuyer notice of the termination and the offer in accordance with paragraph (m)(3) of this section.

(3) Notice of termination by the LHA shall be in writing. Such notice shall state (i) the reason for termination, (ii) that the homebuyer may respond to the LHA, in writing or in person, within a specified reasonable period of time regarding the reason for termination, (iii) that in such response he may be represented or accompanied by a person of his choice, including a representative of the HBA, (iv) that the LHA will consult the HBA concerning this termination, and (v) that unless the LHA rescinds or modifies the notice, the termination shall be effective at the end of the 30-day notice period.

(n) *Termination by the homebuyer.* The homebuyer may terminate the Homebuyers Ownership Opportunity Agreement by giving the LHA 30 days notice in writing of his intention to terminate and vacate the home. In the event that the homebuyer abandons the home, or vacates it without notice to the LHA, the Agreement shall be terminated automatically and the LHA may dispose of, in any manner deemed suitable by it, any items of personal property abandoned by the homebuyer in the home.

§ 1270.108 Break-even amount.

(a) *Definition.* The term "break-even amount" as used herein means the minimum average monthly amount required to provide funds for the items listed in the illustration below. A separate break-even amount shall be established for each size and type of dwelling unit, as well as for the Project as a whole. The break-even amount for EHPA and NRMR will vary by size and type of dwelling unit; similar variations as to other line items may be made if the LHA deems this equitable.

Illustration. The following is an illustration of the computation of the break-even amount based upon hypothetical amounts.

(1) *Operating Expense (see § 1270.109):*		
Administration	$8.50	
Homebuyer services	2.00	
Project supplied utilities	3.00	
Routine maintenance—common property	3.00	
Protective services	2.00	
General expense	6.50	
Nonroutine maintenance — common property (Contribution to operating reserve)	2.00	$27.00
(2) Earned Home Payments Account (see § 1270.110)		12.00
(3) Nonroutine Maintenance Reserve (see § 1270.111)		7.50
Break-Even Amount		46.50

The break-even amount does not include the monthly allowance for utilities which the homebuyer pays for directly, nor does it include any amount for debt service on the Project notes.

(b) *Excess over break-even.* When the homebuyer's required monthly payment (see § 1270.107(j)) exceeds the applicable break-even amount, the excess shall constitute additional Project income and shall be deposited and used in the same manner as other Project income.

(c) *Deficit in monthly payment.* When the homebuyer's required monthly payment is less than the applicable break-even amount, the deficit shall be applied as a reduction of that portion of the monthly payment designated for operating expense (i. e., as a reduction of Project income). In all such cases, the EHPA and the NRMR shall be credited with the amount included in the break-even amount for these accounts.

§ 1270.109 Monthly operating expense.

(a) *Definition and categories of monthly operating expense.* The term "monthly operating expense" means the monthly amount needed for the following purposes:

(1) *Administration.* Administrative salaries, travel, legal expenses, office supplies, postage, telephone and telegraph, etc.;

(2) *Homebuyer services.* LHA expenses in the achievement of social goals, including costs such as salaries, publications, payments to the HBA to assist its operation, contract and other costs;

(3) *Utilities.* Those utilities (such as water), if any, to be furnished by the LHA as part of operating expense;

(4) *Routine maintenance—common property.* For community building, grounds, and other common areas, if any. The amount required for routine maintenance of common property depends upon the type of common property included in the development and the extent of the LHA's responsibility for maintenance (see also § 1270.109(c));

(5) *Protective services.* The cost of supplemental protective services paid by the LHA for the protection of persons and property;

(6) *General expense.* Premiums for fire and other insurance, payments in lieu of taxes to the local taxing body, collection losses, payroll taxes, etc.;

(7) *Nonroutine maintenance—common property (Contribution to operating reserve).* Extraordinary maintenance of equipment applicable to the community building and grounds, and unanticipated items for non-dwelling structures (see § 1270.112).

(b) *Monthly operating expense rate.* The monthly operating expense rate for each fiscal year shall be established on the basis of the LHA's HUD-approved operating budget for that fiscal year. The operating budget may be revised during the course of the fiscal year in accordance with HUD requirements. If it is subsequently determined that the actual operating expense for a fiscal year was more or less than the amount provided by the monthly operating expense established for that fiscal year, the rate of monthly operating expenses to be established for the next fiscal year may be adjusted to account for the difference (see § 1270.112(b)). Such adjustment may result in a change in the required monthly payment, see § 1270.107(j)(4).

(c) *Provision for common property maintenance.* During the period the LHA is responsible for the maintenance of common property, the annual operating budget and the monthly operating expense rate shall include the amount required for routine maintenance of all common property in the development, even though a number of the homes may have been acquired by homebuyers. During such period, this amount shall be computed on the basis of the total number of homes in the development (i. e., the annual amount budgeted for routine maintenance of common property shall be divided by the number of homes in the development, resulting in the annual amount for each home; this figure shall in turn be divided by 12 to determine the monthly amount to be included in the monthly operating expense (and in the break-even amount) for routine maintenance of common property). After the home owners association assumes responsibility for maintenance of common property, the monthly operating expense (and break-even amount) shall include an amount equal to the monthly assessment by the homeowners association for the remaining homes owned by the LHA (see § 1270.112 for nonroutine maintenance of common property).

(d) *Posting of monthly operating expense statement.* A statement showing the budgeted monthly amount allocated in the current operating budget to each operating expense category shall be provided to the HBA and copies shall be provided to homebuyers upon request.

§ 1270.110 Earned Home Payments Account (EHPA).

(a) *Credits to the account.* The LHA shall establish and maintain a separate EHPA for each homebuyer. Since the homebuyer is responsible for maintaining the home, a portion of his required monthly payment equal to the LHA's estimate, approved by HUD, of the monthly cost for such routine maintenance, taking into consideration the relative type and size of the homebuyer's home, shall be set aside in his EHPA. In addition, this account shall be credited with (1) any voluntary payments made pursuant to § 1270.110(f), and (2) any amount earned through the performance of maintenance as provided in § 1270.110(d) and § 1270.111(c).

(b) *Charges to the account.* (1) If for any reason the homebuyer is unable or fails to perform any item of required maintenance as described in § 1270.107 (a), the LHA shall arrange to have the work done in accordance with the procedures established by the LHA and the HBA and the cost thereof shall be charged to the homebuyer's EHPA. Inspections of the home shall be made jointly by the LHA and the HBA.

(2) To the extent NRMR expense is attributable to the negligence of the homebuyer as determined by the HBA and approved by the LHA (see § 1270.111), the cost thereof shall be charged to the EHPA.

(c) *Exercise of option; required amount in EHPA.* The homebuyer may exercise his option to buy the home, by paying the applicable purchase price pursuant to section 16 or 17, only after satisfying the following conditions precedent:

(1) Within the first two years of his occupancy, he has achieved a balance in his EHPA equal to 20 times the amount of the monthly EHPA credit as initially determined in accordance with paragraph (a) of this section;

(2) He has met, and is continuing to meet, the requirements of the Homebuyers Ownership Opportunity Agreement;

(3) He has rendered, and is continuing to render, satisfactory performance of his responsibilities to the HBA.

When the homebuyer has met these conditions precedent, the LHA shall give the homebuyer a certificate to that effect. After achieving the required minimum EHPA balance within the first two years of his occupancy, the homebuyer shall continue to provide the required maintenance, thereby continuing to add to his EHPA. If the homebuyer fails to meet either his obligation to achieve the minimum EHPA balance, as specified, or his obligation thereafter to continue adding to the EHPA, the LHA and the HBA shall investigate and take appropriate corrective action, including termination of the Agreement by the LHA in accordance with § 1270.107(m).

(d) *Additional equity through maintenance of common property.* Homebuyers may earn additional EHPA credits by providing in whole or in part any of the maintenance necessary to the common property of the development. When such maintenance is to be provided by the homebuyer, this may be done and credit earned therefor only pursuant to a prior written agreement between the homebuyer and the LHA (or the home owners

association, depending on who has responsibility for maintenance of the property involved), covering the nature and scope of the work and the amount of credit the homebuyer is to receive. In such cases, the agreed amount shall be charged to the appropriate maintenance account and credited to the homebuyer's EHPA upon completion of the work.

(e) *Investment of excess.* (1) When the aggregate amount of all EHPA balances exceeds the estimated reserve requirements for 90 days, the LHA shall notify the HBA and shall invest the excess in federally insured savings accounts, federally insured credit unions, and/or securities approved by HUD and in accordance with any recommendations made by the HBA. If the HBA wishes to participate in the investment program, it should submit periodically to the LHA a list of HUD-approved securities, bonds, or obligations which the association recommends for investment by the LHA of the funds in the EHPAs. Interest earned on the investment of such funds shall be prorated and credited to each homebuyer's EHPA in proportion to the amount in each such reserve account.

(2) Periodically, but not less often than semi-annually, the LHA shall prepare a statement showing (i) the aggregate amount of all EHPA balances; (ii) the aggregate amount of investments (savings accounts and/or securities) held for the account of all the homebuyers' EHPAs, and (iii) the aggregate uninvested balance of all the homebuyers' EHPAs. This statement shall be made available to any authorized representative of the HBA.

(f) *Voluntary equity payments.* To enable the homebuyer to acquire title to his home within a shorter period, he may, either periodically or in a lump sum, voluntarily make payments over and above his required monthly payments. Such voluntary payments shall be deposited to his credit in his EHPA.

(g) *Delinquent monthly payments.* Under exceptional circumstances as determined by the HBA and the LHA, a homebuyer's EHPA may be used to pay his delinquent required monthly payments, provided the amount used for this purpose does not seriously deplete the account and provided that the homebuyer agrees to cooperate in such counseling as may be made available by the LHA or the HBA.

(h) *Annual statement to homebuyer.* The LHA shall provide an annual statement to each homebuyer specifying at least (1) the amount in his EHPA, and (2) the amount in his NRMR. During the year, any maintenance or repair done on the dwelling by the LHA which is chargeable to the EHPA or to the NRMR shall be accounted for through a work order. A homebuyer shall receive a copy of all such work orders for his home.

(i) *Withdrawal and assignment.* The homebuyer shall have no right to assign, withdraw, or in any way dispose of the funds in its EHPA except as provided in this section or in § 1270.113 and § 1270.115.

(j) *Application of EHPA upon vacating of dwelling.* (1) In the event a Homebuyers Ownership Opportunity Agreement with the LHA is terminated or if the homebuyer vacates the home (see § 1270.107(d)), the LHA shall charge against the homebuyer's EHPA the amounts required to pay (i) the amount due the LHA, including the monthly payments the homebuyer is obligated to pay up to the date he vacates; (ii) the monthly payment for the period the home is vacant, not to exceed 30 days from the date of notice of intention to vacate, or, if the homebuyer fails to give notice of intention to vacate, 30 days from the date the home is put in good condition for the next occupant in conformity with § 1270.107; and (iii) the cost of any routine maintenance, and of any nonroutine maintenance attributable to the negligence of the homebuyer, required to put the home in good condition for the next occupant in conformity with § 1270.107.

(2) If the EHPA balance is not sufficient to cover all of these charges, the LHA shall require the homebuyer to pay the additional amount due. If the amount in the account exceeds these charges, the excess shall be paid to the homebuyer.

(3) Settlement with the homebuyer shall be made promptly after the actual cost of repairs to the dwelling has been determined (see paragraph (a) (1) (iii) of this section), provided that the LHA shall make every effort to make such settlement within 30 days from the date the homebuyer vacates. The homebuyer may obtain a settlement within 7 days of the date he vacates, even though the actual cost of such repair has not yet been determined, if he has given the LHA notice of intention to vacate at least 30 days prior to the date he vacates and if the amount to be charged against his EHPA for such repairs is based on the LHA's estimate of the cost thereof (determined after consultation with the appropriate representative of the HBA).

§ 1270.111 Nonroutine Maintenance Reserve (NRMR).

(a) *Purpose of reserve.* The LHA shall establish and maintain a separate NRMR for each home, using a portion of the homebuyer's monthly payment. The purpose of the NRMR is to provide funds for the nonroutine maintenance of the home, which consists of the infrequent and costly items of maintenance and replacement shown on the Nonroutine Maintenance Schedule for the home (see paragraph (b) of this section). Such maintenance may include the replacement of dwelling equipment (such as range and refrigerator), replacement of roof, exterior painting, major repairs to heating and plumbing systems, etc. The NRMR shall not be used for nonroutine maintenance of common property, or for nonroutine maintenance relating to the home to the extent such maintenance is attributable to the Homebuyer's negligence or to defective materials or workmanship.

(b) *Amount of reserve.* The amount of the monthly payments to be set aside for NRMR shall be determined by the LHA, with the approval of HUD, on the basis of the Nonroutine Maintenance Schedule showing the amount likely to be needed for nonroutine maintenance of the home during the term of the Homebuyers Ownership Opportunity Agreement, taking into consideration the type of construction and dwelling equipment. This Schedule shall (1) list each item of nonroutine maintenance (e.g., range, refrigerator, plumbing, heating system, roofing, tile flooring, exterior painting, etc.), (2) show for each listed item the estimated frequency of maintenance or useful life before replacement, the estimated cost of maintenance or replacement (including installation) for each occasion, and the annual reserve requirement, and (3) show the total reserve requirements for all the listed items, on an annual and a monthly basis. This Schedule shall be prepared by the LHA and approved by HUD as part of the submission required to determine the financial feasibility of the Project. The Schedule shall be revised after approval of the working drawings and specifications, and shall thereafter be reexamined annually in the light of changing economic conditions and experience.

(c) *Charges to NRMR.* (1) The LHA shall provide the nonroutine maintenance necessary for the home and the cost thereof shall be funded as provided in paragraph (c) (2) of this section. Such maintenance may be provided by the homebuyer but only pursuant to a prior written agreement with the LHA covering the nature and scope of the work and the amount of credit the homebuyer is to receive. The amount of any credit shall, upon completion of the work, be credited to the homebuyer's EHPA and charged as provided in paragraph (c) (2) of this section.

(2) The cost of nonroutine maintenance shall be charged to the NRMR for the home except that (i) to the extent such maintenance is attributable to the fault or negligence of the homebuyer, the cost shall be charged to the homebuyer's EHPA after consultation with the HBA if the homebuyer disagrees, and (ii) to the extent such maintenance is attributable to defective materials or workmanship not covered by warranty, or even though covered by warranty if not paid for thereunder through no fault or negligence of the homebuyer, the cost shall be charged to the appropriate operating expense account of the Project.

(3) In the event the amount charged against the NRMR exceeds the balance therein, the difference (deficit) shall be made up from continuing monthly credits to the NRMR based upon the homebuyer's monthly payments. If there is still a deficit when the homebuyer acquires title, the homebuyer shall pay such deficit at settlement (see paragraph (d) (2) of this section).

(d) *Transfer of NRMR.* (1) In the event the Homebuyer's Ownership Op-

portunity Agreement is terminated, the homebuyer shall not receive any balance or be required to pay any deficit in the NRMR. When a subsequent homebuyer moves in, the NRMR shall continue to be applicable to the home in the same amount as if the preceding homebuyer had continued in occupancy.

(2) In the event the homebuyer purchases the home, and there remains a balance in the NRMR, the LHA shall pay such balance to the homebuyer at settlement. In the event the homebuyer purchases and there is a deficit in the NRMR, the homebuyer shall pay such deficit to the LHA at settlement.

(e) *Investment of excess.* (1) When the aggregate amount of the NRMR balances for all the homes exceeds the estimated reserve requirements for 90 days the LHA shall invest the excess in federally insured savings accounts, federally insured credit unions, and/or securities approved by HUD. Income earned on the investment of such funds shall be prorated and credited to each homebuyer's NRMR in proportion to the amount in each reserve account.

(2) Periodically, but not less often than semi-annually, the LHA shall prepare a statement showing (i) the aggregate amount of all NRMR balances, (ii) the aggregate amount of investments (savings accounts and/or securities) held for the account of the NRMRs, and (iii) the aggregate uninvested balance of the NRMRs. A copy of this statement shall be made available to any authorized representative of the HBA.

§ 1270.112 Operating reserve.

(a) *Purpose of reserve.* To the extent that total operating receipts (including subsidies for operations) exceed total operating expenditures of the Project, the LHA shall establish an operating reserve up to the maximum approved by HUD in connection with its approval of the annual operating budgets for the Project. The purpose of this reserve is to provide funds for (1) the infrequent but costly items of nonroutine maintenance and replacements of common property, taking into consideration the types of items which constitute common property, such as nondwelling structures and equipment, and in certain cases, common elements of dwelling structures, (2) nonroutine maintenance for the homes to the extent such maintenance is attributable to defective materials or workmanship not covered by warranty, (3) working capital for payment of a deficit in a homebuyer's NRMR, until such deficit is offset by future monthly payments by the homebuyer or at settlement in the event the homebuyer should purchase, and (4) a deficit in the operation of the Project for a fiscal year, including a deficit resulting from monthly payments totaling less than the break-even amount for the Project.

(b) *Nonroutine Maintenance—common property (Contribution to operating reserve).* The amount under this heading to be included in operating expense (and in the break-even amount) established for the fiscal year (see § 1270.108 and § 1270.109) shall be determined by the LHA, with the approval of HUD, on the basis of estimates of the monthly amount needed to accumulate an adequate reserve for the items described in paragraph (a)(1) of this section. This amount shall be subject to revision in the light of experience. This contribution to the operating reserve shall be made only during the period the LHA is responsible for the maintenance of any common property; and during such period, the amount shall be determined on the basis of the requirements of all common property in the development in a manner similar to that explained in § 1270.109(c). When the operating reserve reaches the maximum authorized in § 1270.112(c) below, the break-even (monthly operating expense) computations (see § 1270.108 and § 1270.109) for the next and succeeding fiscal years need not include a provision for this contribution to the operating reserve unless the balance of the reserve is reduced below the maximum during any such succeeding fiscal year.

(c) *Maximum operating reserve.* The maximum operating reserve that may be retained by the LHA at the end of any fiscal year shall be the sum of (1) one-half of total routine expense included in the operating budget approved for the next fiscal year and (2) one-third of total break-even amounts included in the operating budget approved for the next fiscal year; provided that such maximum may be increased if necessary as determined and approved by HUD. Total routine expense means the sum of the amounts budgeted for administration, homebuyers services, LHA-supplied utilities, routine maintenance of common property, protective services, and general expense or other category of day-to-day routine expense (see § 1270.109 above for explanation of various categories of expense).

(d) *Transfer to homeowners association.* The LHA shall be responsible for and shall retain custody of the operating reserve until the homeowners acquire voting control of the homeowners association (see § 1270.118(c) and § 1270.119(f)). When the homeowners acquire voting control, the homeowners association shall then assume full responsibility for management and maintenance of common property under a plan approved by HUD, and there shall be transferred to the homeowners association a portion of the operating reserve then held by the LHA. The amount of the reserve to be transferred shall be based upon the proportion that one-half of budgeted routine expense (used as a basis for determining the current maximum operating reserve—see paragraph (c) of this section) bears to the approved maximum operating reserve. Specifically, the portion of operating reserve to be transferred shall be computed as follows: obtain a percentage by dividing one-half of budgeted routine expense by the approved maximum operating reserve; and multiply the actual operating reserve balance by this percentage.

(e) *Disposition of reserve.* If, at the end of a fiscal year, there is an excess over the maximum operating reserve, this excess shall be applied to the operating deficit of the Project, if any, and any remainder shall be paid to HUD. Following the end of the fiscal year in which the last home has been conveyed by the LHA, the balance of the operating reserve held by the LHA shall be paid to HUD, provided that the aggregate amount of payments by the LHA under this paragraph shall not exceed the aggregate amount of annual contributions paid by HUD with respect to the Project.

§ 1270.113 Achievement of ownership by initial homebuyer.

(a) *Determination of initial purchase price.* The LHA shall determine the initial purchase price of the home by two basic steps, as follows:

Step 1: The LHA shall take the Estimated Total Development Cost (including the full amount for contingencies as authorized by HUD) of the development as shown in the Development Cost Budget in effect upon award of the Main Construction Contract or execution of the Contract of Sale, and shall deduct therefrom the amounts, if any, attributed to (1) relocation costs, (2) counseling and training costs, and (3) the cost of any community, administration or management facilities including the land, equipment, and furnishings attributable to such facilities as set forth in the development program for the development. The resulting amount is herein called Estimated Total Development Cost for Homebuyers.

Step 2: The LHA shall apportion the Estimated Total Development Cost for Homebuyers among all the homes in the development. This apportionment shall be made by obtaining an FHA appraisal of each home and adjusting such appraised values (upward or downward) by the percentage difference between the total of the appraisal for all the Homes and the Estimated Total Development Cost for Homebuyers. The adjusted amount for each home shall be the initial purchase price for that home.

(b) *Purchase price schedule.* Each homebuyer shall be provided with a Purchase Price Schedule showing (1) the monthly declining purchase price over a 30-year period,[1] commencing with the initial purchase price on the first day of the month following the effective date of the Homebuyers Ownership Opportunity Agreement and (2) the monthly debt service amount upon which the Schedule is based. The Schedule and debt service amount shall be computed on the basis of the initial purchase price, a 30-year period,[1] and a rate of interest equal to the minimum loan interest rate as specified in the Annual Contributions Contract for the Project on the date of HUD approval of the Development Cost Budget, described in paragraph (a) of this section, rounded up, if necessary, to the next multiple of one-forth of one percent (¼ percent).

(c) *Methods of purchase.* (1) The homebuyer may achieve ownership when the amount in his EHPA, plus such portion of the NRMR as he wishes to use for the purchase, is equal to the purchase price as shown at that time on his Purchase Price Schedule plus all Incidental Costs (Incidental Costs mean

[1] Change to 25-year period where appropriate pursuant to § 1270.101(b)(3).

the costs incidental to acquiring ownership, including, but not limited to, the costs for a credit report, field survey, title examination, title insurance, and inspections, the fees for attorneys other than the LHA's attorney, mortgage application and organization, closing and recording, and the transfer taxes and loan discount payment, if any). If for any reason title to the home is not conveyed to the homebuyer during the month in which such circumstances occur, the purchase price shall be fixed at the amount specified for such month and the homebuyer shall be refunded (i) the net additions, if any, credited to his EHPA subsequent to such month, and (ii) such part of the monthly payments made by the homebuyer after the purchase price has been fixed which exceeds the sum of the break-even amount attributable to the unit and the interest portion of the debt service shown in the Purchase Price Schedule.

(2) Where the sum of the purchase price and Incidental Costs is greater than the amounts in the homebuyer's EHPA and NRMR as described in paragraph (c)(1) of this section, the homebuyer may achieve ownership by obtaining financing for or otherwise paying the excess amount. The purchase price shall be the amount shown on his Purchase Price Schedule for the month in which the settlement date for the purchase occurs.

(d) The maximum period for achieving ownership shall be 30 years, but depending upon increases in the homebuyers income and the amount of credit which the homebuyer can accumulate through maintenance and voluntary payments, the period may be shortened accordingly.

§ 1270.114 Payment upon resale at profit.

(a) *Promissory note.* (1) When a homebuyer achieves ownership (regardless of whether ownership is achieved under § 1270.113 or § 1270.115), he shall sign a note obligating him to make a payment to the LHA, subject to the provisions of paragraph (a)(2) of this, in the event he resells his home at a profit within 5 years of actual residence in the home after he becomes a homeowner. If, however, the homeowner should purchase and occupy another home within one year (18 months in case of a newly constructed home) of the resale of the Turnkey III home, the LHA shall refund to the homeowner the amount previously paid by him under the note, less the amount, if any, by which the resale price of the Turnkey III home exceeds the acquisition price of the new home, provided that application for such refund shall be made no later than 30 days after the date of acquisition of the new home.

(2) The note to be signed by the homebuyer pursuant to paragraph (a)(1) of this section shall be a non interest-bearing promissory note (see Appendix IV) to the LHA. The note shall be executed at the time the homebuyer becomes a homeowner and shall be secured by a second mortgage. The initial amount of the note shall be computed by taking the appraised value of the home at the time the homebuyer becomes a homeowner and subtracting (i) the homebuyer's purchase price plus the Incidental Costs and (ii) the increase in value of the home, determined by appraisal, caused by improvements paid for by the homebuyer with funds from sources other than the EHPA or NRMR. The note shall provide that this initial amount shall be automatically reduced by 20 percent thereof at the end of each year of residency as a homeowner, with the note terminating at the end of the five-year period of residency, as determined by the LHA. To protect the homeowner, the note shall provide that the amount payable under it shall in no event be more than the net profit on the resale, that is, the amount by which the resale price exceeds the sum of (i) the homebuyer's purchase price plus the Incidental Costs, (ii) the costs of the resale, including commissions and mortgage prepayment penalties, if any, and (iii) the increase in value of the home, determined by appraisal, due to improvements paid for by him as a homebuyer (with funds from sources other than the EHPA or NRMR) or as a homeowner.

(3) Amounts collected by the LHA under such notes shall be retained by the LHA for use in making refunds pursuant to paragraph (a)(1) of this section. After expiration of the period for the filing of claims for such refunds, any remaining amounts shall be applied (i) to reduce the LHA's capital indebtedness on the Project and (ii) after such indebtedness has been paid, for such purposes as may be authorized or approved by HUD under such Annual Contributions Contract as the LHA may then have with HUD.

Illustration. If the homeowner's purchase price is $10,000, the Incidental Costs are $500, the value added by improvements is $1,000, and the FHA appraised value at the time he acquires ownership is $17,000, the note computation would be as follows:

FHA appraised value		$17,000
Homeowner's purchase price	10,000	
Incidental costs	500	
Improvements	1,000	−11,500
Initial note amount		5,500

In this example, the amount of the note during the first year of residence is $5,500. In the second year, the amount of the note is $4,400, and in the third year, it is $3,300, etc. The note shall terminate at the end of the fifth year.

If the homeowner in this example resells his home during the first year for a sales price of $17,500, has resale costs of $1,600 (including a sales commission), and has added $1,500 value by further improvements, he would be required to pay the LHA $2,900 rather than the $5,500, as indicated in the following computations:

Resale price		$17,500
Resale costs	1,600	
Purchase price and incidental costs	10,500	
All improvements	2,500	−14,600
Payable to LHA		2,900

(b) *Residency requirements.* The five-year note period does not end if the homeowner rents or otherwise does not use the home as his principal place of residence for any period within the first five years after he achieves ownership. Only the actual amount of time he is in residence is counted and the note shall be in effect until a total of five years time of residence has elapsed, at which time the homeowner may request the LHA to release him from the note, and the LHA shall do so.

§ 1270.115 Achievement of ownership by subsequent homebuyers.

(a) *Definition.* In the event the initial homebuyer and his family vacate the home before having acquired ownership, a subsequent occupant who enters into a Homebuyer's Ownership Opportunity Agreement and who is not a successor pursuant to § 1270.107(k)(2) is herein called a "subsequent homebuyer."

(b) *Determination of initial purchase price.* The initial purchase price for a subsequent homebuyer shall be an amount equal to (1) the purchase price shown in the initial homebuyer's Purchase Price Schedule as of the date of this Agreement with the subsequent homebuyer plus (2) the amount, if any, by which the appraised fair market value of the home, determined or approved by HUD as of the same date, exceeds the purchase price specified in paragraph (b)(1) of this section.

(c) *Purchase price schedule.* The subsequent homebuyer's Purchase Price Schedule shall be the same as the unexpired portion of the initial homebuyer's Purchase Price Schedule except that where his purchase price includes an additional amount as specified in paragraph (b)(2) of this section, the initial homebuyer's Purchase Price Schedule shall be followed by an Additional Purchase Price Schedule for such additional amount based upon the same monthly debt service and the same interest rate as applied to the initial homebuyer's Purchase Price Schedule.

(d) *Residual receipts.* After payment in full of the LHA's debt, if there are any subsequent homebuyers who have not acquired ownership of their homes, the LHA shall continue to pay to HUD all residual receipts from the operation of the Project, including payments received on account of any Additional Purchase Price Schedules applicable to the homes, provided the aggregate amount of such payments of residual receipts does not exceed the aggregate amount of annual contributions paid by HUD with respect to the Project.

§ 1270.116 Transfer of title to homebuyer.

When the homebuyer is to obtain ownership as described in § 1270.113 or § 1270.115, a closing date shall be mutually agreed upon by the parties. On the closing date the homebuyer shall pay the required amount of money to the LHA, sign the promissory note pursuant to § 1270.114, and receive a deed for the home.

§ 1270.117 Responsibilities of homebuyer after acquisition of ownership.

After acquisition of ownership, each homeowner shall be required to pay to the LHA or to the homeowners association, as appropriate, a monthly fee for (a) the maintenance and operation of community facilities including utility facilities, if any, (b) the maintenance of grounds and other common areas and, (c) such other purposes as determined by the LHA or the homeowners association, as appropriate, including taxes and a provision for a reserve. This requirement shall be set out in the planned unit development or condominium documents which shall be recorded prior to the date of full availability, or in an LHA-homeowner contract in this regard.

§ 1270.118 Homeowners association—planned unit development (PUD).

If the development is organized as a planned unit development:

(a) *Ownership and maintenance of common property.* The common areas, sidewalks, parking lots, and other common property in the development shall be owned and maintained as provided for in the approved planned unit development (PUD) program except that the LHA shall be responsible for maintenance until such time as the homeowners association assumes such responsibility (see § 1270.112(d)).

(b) *Title restrictions.* The title ultimately conveyed to each homebuyer shall be subject to restrictions and encumbrances to protect the rights and property of all other owners. The homeowners association shall have the right and obligation to enforce such restrictions and encumbrances and to assess owners for the costs incurred in connection with common areas and property and other responsibilities.

(c) *Votes in association.* There shall be as many votes in the association as there are homes in the development, and, at the outset, all the voting rights shall be held by the LHA. As each home is conveyed to the homebuyer, one vote shall automatically go to the homeowner so that, when all the homes have been conveyed, the LHA shall no longer have any interest in the homeowners association.

(d) *Voting control.* The LHA shall not lose its majority voting interest in the association as soon as a majority of the homes have been conveyed, unless the law of the state requires control to be transferred at a particular time, or the LHA so desires. If permitted by state law, provision shall be made for each home owned by the LHA to carry three votes, while each home owned by a homeowner shall carry one vote. Under this weighted voting plan, the LHA shall continue to have voting control until 75 percent of the homes have been acquired by homeowners. However, at its discretion, the LHA may transfer voting control to the homeowners when at least 50 percent of the homes have been acquired by the homeowners.

§ 1270.119 Homeowners association—condominium.

If the development is organized as a condominium:

(a) The LHA at the outset shall own each condominium unit and its undivided interest in the common areas;

(b) All the land, including that land under the housing units, shall be a part of the common areas;

(c) The homeowners association shall own no property but shall maintain and operate the common areas for the individual owners of the condominium units except that the LHA shall be responsible for maintenance until such time as the homeowners association assumes such responsibility (see § 1270.112(d));

(d) The percentage of undivided interest attached to each condominium unit shall be based on the ratio of the value of the units to the value of all units and shall be fixed when the development is completed. This percentage shall determine the homeowner's liability for the maintenance of the common areas and facilities;

(e) Each homeowner's vote in the homeowners association shall be identical with the percentage of undivided interest attached to his unit; and

(f) The LHA shall not lose its majority voting interest in the association as soon as units representing 50 percent of the value of all units have been conveyed, unless the law of the state requires control to be transferred at a particular time or the LHA so desires. For voting purposes, until units representing 75 percent of the value of all units have been acquired by homeowners, the total undivided interest attributable to the homes owned by the LHA shall be multiplied by three, if such weighted voting plan is permitted by State law. Under this plan, the LHA shall continue to maintain voting control until 75 percent of the homes have been acquired by homeowners. However, at its discretion, the LHA may transfer voting control to the homeowners when units representing at least 50 percent of the value of all units have been acquired by the homeowners.

§ 1270.120 Relationship of homeowners association to HBA.

The HBA and the LHA may make arrangements to permit homebuyers to participate in homeowners association matters which affect the homebuyers. Such arrangements may include rights to attend meetings and to participate in homeowners association deliberations and decisions.

§ 1270.121 Use of appendices.

Use of the following Appendices is mandatory for Projects developed under this subpart:

Appendix I—Annual Contributions Contract "Special Provisions for Turnkey III Homeownership Opportunity Project"
Appendix II—Homebuyers Ownership Opportunity Agreement (Turnkey III)
Appendix III—Certificate of Achievement of Homebuyer Status
Appendix IV—Promissory Note for Payment Upon Resale by Homebuyer at Profit
Appendix V—Nonroutine Maintenance Schedule (Turnkey III)

No modification may be made in format, content or text of these Appendices except (1) as required under state or local law as determined by HUD or (2) wi approval of HUD. It is anticipated th as a matter of course, modifications w be made in Appendix V to suit the phy ical reality of the development in que tion.

APPENDIX I

(Subpart B)

ANNUAL CONTRIBUTIONS CONTRACT

( ) Special Provisions for Turnkey I Homeownership Opportunity Project No. ----------

(1) The Local Authority agrees to opera the Project in accordance with requiremer for the Homeownership Opportunity Progra for Low-Income Families (Turnkey III) prescribed by the Government. The Local A thority shall enter into an agreement wi the occupant of each dwelling unit in t Project which agreement shall be in the for of the Homebuyers Ownership Opportuni Agreement approved by the Governmer which form provides an opportunity for t acquisition of ownership of the dwelling ur by each occupant who has performed all the obligations and conditions precedent ir posed upon him by such agreement. Up conveyance of any such dwelling unit, t Local Authority's outstanding obligations respect to the Project shall be reduced by t amount received for such conveyance, a the Government's obligation for payment, annual contributions in respect to the Proje shall be reduced by the amount allocable the initial purchase price of the dwellii unit. The term "initial purchase price" used in these Special Provisions shall ha the same meaning as in the Homebuye Ownership Opportunity Agreement, and t term "dwelling unit" shall have the san meaning as the term "Home" used in t Homebuyers Ownership Opportunity Agre ment.

(2) Failure of the Local Authority to ent into such Homebuyers Ownership Opportur ity Agreements at the time and in the for as required by the Government, failure perform any such agreement, and failure meet any of its obligations under these Sp cial Provisions shall constitute a Substa tial Default under this Contract.

(3) The books of account and records the Local Authority shall be maintained meet the requirements of the Homebuye Ownership Opportunity Agreement as we as the other provisions of this Contract ar in such manner as will at all times sho the operating receipts, operating expend tures, reserves, residual receipts, and oth required accounts for the Project separa and distinct from all other Projects und this Contract.

(4) As of the Date of Full availability, at such earlier date as the Government ma require, the Local Authority shall determin and submit to the Government for its ap proval the amount below which the Deve opment Cost of the Project will in no even fall. Upon approval thereof by the Govern ment, such amount shall constitute and b known as the "Minimum Development Cost of the Project. The Local Authority sha issue its Project Loan Notes, Permanen Notes or Project Notes as the Governmen may require to finance the Minimum De velopment Cost. On each Annual Contribu tion Date the Government shall pay an an nual contribution for the Project in a amount equal to the Maximum Contributio Percentage of the latest approved Minimun Development Cost. The first annual contri bution shall be paid or made available a of the next Annual Contribution Date fol lowing the approval of the Minimum Devel opment Cost of the Project.

(5) Notwithstanding section 403(A)(4) the term "Development Cost" shall includ interest on that portion of borrowed monie

allocable to the Project for the period ending with the Date of Full Availability or such earlier date as may be specifically approved by the Government.

(6) (a) During the —[1] year Maximum Contribution Period established for the Project, the Local Authority shall, within 60 days after the end of each Fiscal Year, pay to the Government all Residual Receipts of the Project for such Fiscal Year for application to the reduction of Annual Contributions payable by the Government with respect to the Project.

(b) During the period of years immediately following and equal to the Maximum Contribution Period established for the Project, the Local Authority shall, within 60 days after the end of each Fiscal Year, pay to the Government all Residual Receipts of the Project for such Fiscal Year.

(c) Following the end of the Fiscal Year in which the last dwelling unit has been conveyed by the Local Authority, the balance of the operating reserve held by the Local Authority shall be paid to the Government, provided that the aggregate amount of payments under (b) and (c) of this paragraph shall not exceed the aggregate amount of annual contributions paid by the Government with respect to the Project.

(7) No part of the Funds on deposit in the Debt Service Fund or the Advance Amortization Fund with respect to any other Project under this Contract or the funds available for deposit in such Funds for such other Projects, shall be applied to the retirement of Notes issued for this Project, nor shall any such funds on deposit for this Project be used with respect to any other Project or Projects under this Contract.

(8) To the extent that the provisions of this section conflict with other provisions of this Contract, the provisions of this section shall be controlling with respect to the Project.

[1] 25 or 30, as applicable.

APPENDIX II

(Subpart B)

HOMEBUYERS OWNERSHIP OPPORTUNITY AGREEMENT

(Turnkey III)

PART I

This Agreement, made and entered into _____, 19__, by and between _____ (herein called the "Authority"), and _____ (herein called the "Homebuyer");

WITNESSETH:

In consideration of the agreements and covenants contained in this Agreement and in Homebuyers Ownership Opportunity Agreement Part II, which is hereby incorporated into this Agreement by reference, the Authority leases to the Homebuyer the following described land and improvements thereon together with an undivided interest in all common areas and property (herein called the "Home") located in the _____ Development (Project No. ____), which Home is identified and located as follows: [Insert address and legal description of location of Home, including rights with respect to common areas and property, and making reference to Book and Page No. in Recorder of Deeds Office].

A. *Term of Agreement.* The term of this Agreement shall commence on _____, 19__, and shall expire at midnight on the last day of this same calendar month. Said term shall be extended automatically for successive periods of one calendar month for a total term of ____[1] years from the first day of the next calendar month unless the Homebuyer acquires title to the home pursuant to section 16 or 17 of part II, as applicable, or unless this Agreement is terminated pursuant to section 24 of part II.

B. *Monthly Payment.* 1. Until changed in accordance with this Agreement, the Homebuyer's Monthly Payment shall be $____ per month, due and payable on or before the first day of each month. If liability for the Monthly Payment shall start on a day other than the first day of a calendar month, or if for any reason the effective date of termination occurs on other than the last day of the month, the Monthly Payment for such month shall be proportionate to the period of occupancy during that month.

2. The amount of the Monthly Payment may be increased or decreased only by reason of changes in the Rent Schedule (see section 7c of part II) or changes in the Homebuyer's family income or other circumstances (see section 7b of part II). Any change in Monthly Payment shall become effective by written notice from the Authority to the Homebuyer as of the date specified in such notice, and such notice shall be deemed to constitute an Amendment to this Agreement.

C. *Option to Purchase.* In consideration of the covenants contained herein, the Authority grants the Homebuyer an option to purchase the Home for the applicable purchase price, to be exercised in accordance with section 10d of part II.

D. *Purchase Price.* The Initial Purchase Price of this Home is $_____ (this price has been determined in accordance with section 16 or 17 of part II as applicable); this amount shall be reduced periodically in accordance with the schedule (hereinafter called Purchase Price Schedule) for that amount, which Schedule is hereby furnished the Homebuyer.

E. *Amount of NRMR.* The balance (or deficit) in the NRMR on the date of this Agreement is $_____.

F. *Homebuyers Association.* Upon the signing of this Agreement, the Homebuyer's family automatically becomes a member of the Homebuyers Association, as provided in section 5 of part II.

G. *Designation of Successor.* For the purpose of section 25 of part II, the designee and his address are: _____

First Name Initial

_____ _____

Last Name Relationship

H. *Entire Agreement.* This Agreement (comprising parts I and II, the purchase price schedule, the nonroutine maintenance schedule, and the promissory note) is the entire Agreement between the Authority and the Homebuyer, and, except as otherwise provided in this Agreement, no changes shall be made other than in writing signed by the Authority and the Homebuyer.

This agreement is signed in duplicate, either copy of which may be considered the original for all purposes. The Homebuyer hereby acknowledges receipt of one of these signed copies.

WITNESSES

_____

_____

The Authority:

BY_____

(Official Title)

The Homebuyer(s):

☐ Initial

☐ Subsequent

_____

_____

[1] Fill in term of years equal to term of Purchase Price Schedule (and Additional Purchase Price Schedule, if applicable) (see Section 16 or 17 of Part II as applicable).

PART II

TERMS AND CONDITIONS

1. *Introduction*—a. *The Home.* The Home described in part I of this Agreement is part of a Development, which the Authority has acquired or caused to be constructed. This Development contains a number of dwelling units including related land, and may also include common areas and property as described in part I for occupancy by low-income families under lease-purchase agreements, each in the form of this Homebuyers Ownership Opportunity Agreement. This Development is financed by sale of the Authority's notes which will be amortized over the period of years specified in the Annual Contributions Contract relating to this Development.

b. *Annual Contributions Contract.* The Authority has entered into an Annual Contributions Contract ("ACC") with the Department of Housing and Urban Development ("HUD") under which the Authority will receive Annual Contributions provided by HUD, and will perform certain operational functions, to provide housing for the Homebuyers and assist the Homebuyers in achieving homeownership.

c. *Management.* The Authority may enter into a contract or contracts for management of the Development or for performance of management functions, by the Homebuyers Association (see section 5) or others.

d. *Definitions.*

(1) The term "Authority" means the local housing authority which acquires or develops a low-rent housing development with financial assistance from HUD, owns the Homes until title is transferred to the Homebuyers, and is responsible for the management of the homeownership opportunity program.

(2) The term "common property" means the nondwelling structures and equipment, common areas, community facilities, and in some cases certain component parts of dwelling structures, which are contained in the Development.

(3) The term "Development" means the entire undertaking including all real and personal property, funds and reserves, rights, interests and obligations, and activities related thereto.

(4) The term "EHPA" means the Earned Home Payments Account established and maintained pursuant to section 10 of this Agreement.

(5) The term "Homebuyer" means the member or members of a low-income family who have executed a Homebuyers Ownership Opportunity Agreement with the Authority.

(6) The term "Homebuyers Association" (HBA) means an organization as defined in section 5 of this Agreement.

(7) The term "Homeowner" means a Homebuyer who has acquired title to his Home.

(8) The term "Homeowners Association" means an association comprised of Homeowners, including condominium associations, having responsibilities with respect to common property.

(9) The term "HUD" means the Department of Housing and Urban Development which provides the Authority with financial assistance through loans and annual contributions and technical assistance in development and operation.

(10) The term "NRMR" means the Nonroutine Maintenance Reserve established and maintained pursuant to section 11 of this Agreement.

(11) The term "Project" is used to refer to the Development in relation to matters specifically related to the Annual Contributions Contract.

2. *The homebuyers ownership opportunity agreement.* Under this Homebuyers Owner-

ship Opportunity Agreement, the Homebuyer may achieve ownership of the home described in part I by making the required monthly payments and providing maintenance and repairs to build up a credit in his Earned Home Payments Account (hereinafter called "EHPA"). While the Homebuyer is performing his obligations, the purchase price will be reduced in accordance with the Purchase Price Schedule, so that, while this purchase price is being reduced, the Homebuyer is increasing the amount of his EHPA. The Homebuyer may also make voluntary payments to his EHPA which will enable him to acquire ownership more quickly. The Homebuyer may take title to his Home when he is able to finance or pay in full the balance of the purchase price as shown on the Purchase Price Schedule plus the costs incidental to acquiring ownership, as provided in section 16 or 17, as applicable.

3. *Status of homebuyer.* Until the Homebuyer satisfies the conditions set forth in section 10d precedent to the exercise of his option to purchase the Home for the applicable purchase price, the Homebuyer shall have the status of a lessee of the Authority from month to month with an obligation to build up such balance in his EHPA within the first two years of his occupancy and to continue adding to his EHPA thereafter. For convenience the term "Homebuyer" also refers to the occupant during his status as a lessee.

4. *Counseling of homebuyers.* The Authority shall provide training and counseling, as required and approved by HUD. The Authority's own staff and resources, existing community resources, a private agency under contract with the Authority, or any combination of the three, shall be utilized to prepare Homebuyers for the rights, responsibilities, and obligations of homeownership including participation in the Homebuyers Association. The Homebuyer agrees to participate in and cooperate fully in all official training and counseling activities.

5. *Homebuyers Association.*[2] Upon the signing of this Agreement, the Homebuyer's family automatically becomes a member of the Homebuyers Association having membership and purposes as set forth in the Articles of Incorporation of said Association. In the absence of a duly organized Homebuyers Association, the Authority shall be free to act without the HBA action required by this Agreement.

6. *Routine maintenance, repair and use of premises.* a. *Routine maintenance.* The Homebuyer shall be responsible for the routine maintenance of his dwelling and grounds, to the satisfaction of the Homebuyers Association and the Authority. This routine maintenance includes the work (labor and materials) of keeping the dwelling structure, grounds and equipment in good repair, condition and appearance so that they may be utilized continually at their designed capacities and at the satisfactory level of efficiency for their intended purposes, and in conformity with the requirements of local housing codes and applicable regulations and guidelines of HUD. It includes repairs (labor and materials) to the dwelling structure, plumbing fixtures, dwelling equipment (such as range and refrigerator), shades and screens, water heaters, heating equipment and other component parts of the dwelling. It also includes all interior painting and maintenance of the grounds (lot) on which the dwelling is located. It does not include maintenance and replacements provided for by the Nonroutine Maintenance Reserve described in Section 11.

b. *Repair of damage.* In addition to his obligation for routine maintenance, the Homebuyer shall be responsible for repair of any damage caused by the Homebuyer, members of his family, or visitors.

c. *Care of home.* The Homebuyer agrees to keep his dwelling in a sanitary condition; to cooperate with the Authority and the Homebuyers Association in keeping and maintaining the common area and property, including fixtures and equipment, in good condition and appearance; and to follow all rules of the Authority and of the Homebuyers Association concerning the use and care of the dwellings and the common areas and property.

d. *Inspections.* The Homebuyer agrees to permit officials, employees, or agents of the Authority, and of the Homebuyers Association to inspect his Home at reasonable hours and intervals in accordance with rules established by the Authority and the Homebuyers Association.

e. *Use of home.* The Homebuyer shall not (1) sublet his Home without the prior written approval of the Authority and HUD, (2) use or occupy his home for any unlawful purpose nor for any purpose deemed hazardous by insurance companies on account of fire and other risks, or (3) provide accommodations (unless approved by the Homebuyers Association and the Authority) to boarders or lodgers. The Homebuyer agrees to use the Home only as a place to live for himself and his family (as identified in his initial application or by subsequent amendment with the approval of the Authority), for children thereafter born to or adopted by members of such family, and for aged or widowed parents of the Homebuyer or spouse who may join the household.

f. *Obligations with respect to other persons and property.* Neither the Homebuyer nor any member of his family shall interfere with rights of other occupants of the Development, or damage the common property or the property of others, or create physical hazards.

g. *Structural changes.* A Homebuyer shall not make any structural changes in or additions to his Home unless the Authority has first determined in writing that such change would not (1) impair the value of the unit, the surrounding units, or the Development as a whole, or (2) affect the use of the Home for residential purposes, or (3) violate HUD requirements as to construction and design. Any changes made in accordance with this paragraph shall be at the Homebuyer's expense, and in the event of termination of this Agreement before the Homebuyer acquires title to the Home, whether by reason of the Homebuyer's default or otherwise, the Homebuyer shall not be entitled to any compensation on account of his having made such changes.

h. *Statement of condition and repair.* When the Homebuyer moves in, the Authority shall inspect the Home and shall give the Homebuyer a written statement, to be signed by the Authority and the Homebuyer, of the condition of the Home and the equipment in it. Should the Homebuyer vacate, the Authority shall inspect the Home and give the Homebuyer a written statement of the repairs and other work, if any, required to put the Home in good condition for the next occupant (see section 10i). The Homebuyer or his representative, or both, may join in any such inspections with the Authority and the Homebuyer Association.

7. *Monthly payments by Homebuyer—* a. *Determination of amount.* Except as otherwise provided hereinafter, the Homebuyer agrees to pay to the Authority, so long as this Agreement is in effect, a required Monthly Payment as lease rental in an amount determined in accordance with a schedule adopted by the Authority and approved by HUD. Although the total monthly housing cost consists of the sum of the break-even amount (see section 8) and the debt service (payment of principal and interest) on the applicable share of the capital cost of the Development, the Homebuyer, so long as he qualifies as low income, is not required to pay the full amount, but is assisted by HUD annual contributions. The schedule shall provide for payments to be based upon a percentage of the family's adjusted monthly income and shall indicate allowances for those utilities which the Homebuyer will pay for directly.

b. *Changes in monthly payment due to changes in family income or other circumstances.* The required Monthly Payment may be adjusted as a result of the Authority's regularly or specially scheduled reexamination of the Homebuyer's family income and family composition. Interim changes may be made in accordance with the Authority's policy on reexaminations, or under unusual circumstances, at the request of the Homebuyer, if both the Authority and the Homebuyers Association agree that such action is warranted.

c. *Changes in monthly payment due to changes in rent schedules.* The required Monthly Payment may also be adjusted by changes in the required percentage of income to reflect (1) changes in operating expense as described in section 9b and (2) changes in utility allowances.

d. *Acceptance of monthly payment.* The Authority shall not refuse to accept monthly payments because of any other charges (i.e., other than overdue monthly payments) owed by the Homebuyer to the Authority; however, by accepting monthly payments under such circumstances the Authority shall not be deemed to have waived any of its rights and remedies with respect to such other charges.

e. *Application of monthly payment.* The Homebuyer's Monthly Payment shall be applied by the Authority as follows: First, to the credit of the Homebuyer's EHPA pursuant to section 10 below; second, to the credit of the Nonroutine Maintenance Reserve for the Home pursuant to Section 11 below; and third, for payment of Monthly Operating Expense, including contribution to Operating Reserve, as provided in section 9 below.

8. *Break-even amount—* a. *Definition.* The term "Break-even Amount" means the minimum monthly amount needed to provide funds for:

(1) Monthly Operating Expense, including provision for a contribution to Operating Reserve, pursuant to section 9a below;

(2) the monthly amount to be credited to the Homebuyer's EHPA pursuant to Section 10 below; and

(3) the monthly amount to be credited to the Nonroutine Maintenance Reserve for the Home pursuant to section 11 below.

b. *Monthly payment in excess of break-even amount.* When the Homebuyer's required Monthly Payment exceeds the applicable Break-even Amount, the excess shall constitute additional Project income and shall be deposited and used in the same manner as other Project income.

c. *Monthly payment below break-even amount.* When the Homebuyer's required Monthly Payment is less than the applicable Break-even Amount, the deficit shall be applied as a reduction of that portion of the Monthly Payment designated for Operating

[2] There may be cases, such as where the homes are on scattered sites, where there is no Homebuyers Association but an alternative method for homebuyer representation and counseling is provided (see 24 CFR § 1270.307). In such cases, section 5 and other portions of this Agreement referring to the Homebuyers Association should be modified to reflect the alternative method provided for homebuyer representation and counseling.

Expense (i.e., as a reduction of project income). In all such cases, the EHPA and the NRMR shall be credited with the amount included in the Break-even Amount for these accounts.

9. *Monthly operating expense*—a. *Definition and categories of monthly operating expense.* The term "monthly operating expense" means the monthly amount needed for the following purposes:

(1) *Administration.* Administrative salaries, travel, legal expenses, office supplies, postage, telephone and telegraph, etc.;

(2) *Homebuyer services.*—Authority expenses in the achievement of social goals, including costs such as salaries, publications, payments to the HBA to assist its operation, contract and other costs;

(3) *Utilities.* Those utilities (such as water), if any to be furnished by the Authority as part of operating expense;

(4) *Routine maintenance—Common property.* For community building, grounds, and other common areas, if any. The amount required for routine maintenance of common property depends upon the type of common property included in the Development and the extent of the Authority's responsibility for maintenance (see also section 9c);

(5) *Protective services.* The cost of supplemental protective services paid by the Authority for the protection of persons and property;

(6) *General expense.* Premiums for fire and other insurance, payments in lieu of taxes to the local taxing body, collection losses, payroll taxes, etc.;

(7) *Nonroutine maintenance—common property (contribution to operating reserve).* Extraordinary maintenance of equipment applicable to the community building and grounds, and unanticipated items for non-dwelling structures (see section 12).

b. *Monthly operating expense rate.* The monthly operating expense rate for each fiscal year shall be established on the basis of the Authority's HUD-approved operating budget for that fiscal year. The operating budget may be revised during the course of the fiscal year in accordance with HUD requirements. If it is subsequently determined that the actual operating expense for a fiscal year was more or less than the amount provided by the monthly operating expense established for that fiscal year, the rate of monthly operating expense to be established for the next fiscal year may be adjusted to account for the difference (see section 12). Such adjustment may result in a change in the required monthly payment (see section 7c).

c. *Provision for common property maintenance.* During the period the Authority is responsible for the maintenance of common property, the annual operating budget and the monthly operating expense rate shall include the amount required for routine maintenance of all common property in the Development, even though a number of the homes may have been acquired by homebuyers. During such period, this amount shall be computed on the basis of the total number of homes in the Development (i.e., the annual amount budgeted for routine maintenance of common property shall be divided by the number of Homes in the Development, resulting in the annual amount for each Home; this figure shall in turn be divided by 12 to determine the monthly amount to be included in the monthly operating expense (and in the break-even amount) for routine maintenance of common property). After the Homeowners Association assumes responsibility for maintenance of common property, the monthly operating expense (and break-even amount) shall include an amount equal to the monthly assessment by the homeowners association for the remaining homes owned by the Authority (see section 11 for nonroutine maintenance of common property).

d. *Posting of monthly operating expense statement.* A statement showing the budgeted monthly amount allocated in the current operating budget to each operating expense category shall be provided to the HBA and a copy shall be provided to the Homebuyer upon request.

10. *Earned Home Payments Account (EHPA).*—a. *Credits to the account.* The Authority shall establish and maintain a separate EHPA for each Homebuyer. Since the Homebuyer is responsible for maintaining his Home as provided in section 6, a portion of his required Monthly Payment equal to the Authority's estimate, approved by HUD, of the monthly cost for such routine maintenance, taking into consideration the relative type and size of the Home, shall be set aside in his EHPA. In addition, this account shall also be credited with (1) any voluntary payments made pursuant to section 10g and (2) any amount earned through the performance of maintenance pursuant to paragraph e of this section. All amounts received by the Authority for credit to the Homebuyer's account, including credits for performance of maintenance pursuant to paragraph e of this section, shall be held by the Authority for the account of the Homebuyer.

b. *Use of EHPA funds.* The unused balance in the Homebuyer's EHPA may be used toward purchase of the Home as provided in section 16 or 17 as applicable, or shall be payable to the Homebuyer if he leaves the Project as provided in paragraph k of this section.

c. *Charges to the account.* (1) If for any reason the Homebuyer is unable or fails to perform any item of required maintenance as described in section 6, the Authority shall arrange to have the work done in accordance with the procedures established by the Authority and the HBA and the cost thereof shall be charged to the Homebuyer's EHPA. Inspections of the Home shall be made jointly by the Authority and the HBA.

(2) To the extent nonroutine maintenance expense is made necessary by the negligence of the Homebuyer as determined by the HBA and the Authority (see section 11), the cost thereof shall be charged to the EHPA.

d. *Exercise of option; required amount in EHPA.* The Homebuyer may exercise his option to buy the Home, by paying the applicable purchase price pursuant to section 16 or 17, only after satisfying the following conditions precedent:

(1) Within the first two years of his occupancy, he has achieved a balance in his EHPA equal to 20 times the amount of the monthly EHPA credit as initially determined in accordance with paragraph a of this section;

(2) He has met, and is continuing to meet, the requirements of this Agreement;

(3) He has rendered, and is continuing to render, satisfactory performance of his responsibilities to the HBA.

When the Homebuyer has met these conditions precedent, the Authority shall give the Homebuyer a certificate to that effect. After achieving the required minimum EHPA balance within the first two years of his occupancy, the Homebuyer shall continue to be obligated to provide the required maintenance, thereby continuing to add to his EHPA. If the Homebuyer fails to meet either his obligation to achieve the minimum EHPA balance as specified or his obligation thereafter to continue adding to the EHPA, the Authority and the HBA shall investigate and take appropriate corrective action, including termination of this Agreement by the Authority in accordance with section 24.

e. *Additional equity through other maintenance.* Besides the maintenance which the Homebuyer must provide pursuant to section 6, the Homebuyer may earn additional EHPA credits by providing in whole or in part any of the maintenance necessary to the common property of the Development or maintenance for which the Nonroutine Maintenance Reserve is established (see section 11). Such maintenance may be provided by the Homebuyer and credit earned therefor only pursuant to a prior written agreement between the Homebuyer and the Authority (or the Homeowners Association, depending on who has responsibility for maintenance of the property involved), covering the nature and scope of the work and the amount of credit the Homebuyer is to receive. Upon completion of such work, the agreed amount shall be charged to the appropriate maintenance account and credited to the Homebuyer's EHPA.

f. *Investment of excess.* When the aggregate amount of all EHPA balances exceeds the estimated reserve requirements for 90 days, the Authority shall notify the HBA and shall invest the excess in federally-insured savings accounts, federally insured credit unions, and/or securities approved by HUD and in accordance with any recommendations made by the HBA. If the HBA wishes to participate in the investment program it should submit periodically to the Authority a list of HUD approved securities, bonds, or obligations which the HBA recommends for investment by the Authority of the funds in the EHPAs. Interest earned on the investment of such funds shall be prorated and credited to each Homebuyer's EHPA in proportion to the amount in each such reserve account.

Periodically, but not less often than semiannually the Authority shall prepare a statement showing: (1) The aggregate amount of all EHPA balances; (2) the aggregate amount of investments (savings accounts and/or securities) held for the account of all the Homebuyers' EHPAs, and (3) the aggregate uninvested balance of all the Homebuyers' EHPAs. This statement shall be made available to any authorized representative of the HBA.

g. *Voluntary equity payments.* To enable the Homebuyer to acquire title to the Home within a shorter period, he may either periodically or in a lump sum voluntarily make payments over and above his required monthly payments. Such voluntary payments shall be deposited to his credit in his EHPA.

h. *Delinquent monthly payments.* Under exceptional circumstances as determined by the HBA and the Authority, the Homebuyer's EHPA may be used to pay his delinquent required monthly payments, provided the amount used for this purpose does not seriously deplete the account and provided that the Homebuyer agrees to cooperate in such counseling as may be made available by the Authority or the HBA.

i. *Annual statement to homebuyer.* The Authority shall provide an annual statement to the Homebuyer specifying at least (1) the amount in his EHPA, and (2) the amount in his Nonroutine Maintenance Reserve. During the year, any maintenance or repair done on the dwelling by the Authority which is chargeable to the EHPA or to the Nonroutine Maintenance Reserve, shall be accounted for through a work order. The Homebuyer shall receive a copy of all such work orders for his Home.

j. *Withdrawal and assignment.* The Homebuyer shall have no right to assign, withdraw, or in any way dispose of the funds in his EHPA except as provided in this section or in sections 16 and 17.

k. *Application of EHPA upon vacating of dwelling.* (1) In the event this Agreement is terminated or if the Homebuyer vacates the Home, the Authority shall charge against the Homebuyer's EHPA the amounts required to pay: (i) The amount due the Authority,

including the monthly payments the Homebuyer is obligated to pay up to the date he vacates; (ii) the monthly payment for the period the Home is vacant, not to exceed 30 days from the date of notice of intention to vacate, or if the Homebuyer failed to give notice of intention to vacate, 30 days from the date the Home is put in good condition for the next occupant in conformity with section 6; and (iii) the cost of any routine maintenance, and of any nonroutine maintenance attributable to the negligence of the Homebuyer, required to put the Home in good condition for the next occupant in conformity with section 6.

(2) If the Homebuyer's EHPA balance is not sufficient to cover all of these charges, the Authority shall require the Homebuyer to pay the additional amount due. If the amount in the EHPA exceeds these charges, the excess shall be paid the Homebuyer.

(3) Settlement with the Homebuyer shall be made promptly after the actual cost of repairs to the dwelling has been determined (see paragraph k(1)(iii) of this section), provided that the Authority shall make every effort to make such settlement within 30 days from the date the Homebuyer vacates. The Homebuyer may obtain a settlement within 7 days of the date he vacates, even though the actual cost of such repairs has not yet been determined, if he has given the Authority notice of intention to vacate 30 days prior to the date he vacates and if the amount to be charged against his EHPA for such repairs is based on the Authority's estimate of the cost thereof (determined after consultation with the appropriate representative of the HBA).

11. *Nonroutine maintenance reserve (NRMR)*—a. *Purpose of reserve.* The Authority shall establish and maintain a separate nonroutine maintenance reserve (NRMR) for the Home, using a portion of the Homebuyer's monthly payment. The purpose of the NRMR is to provide funds for the nonroutine maintenance of the Home, which consists of the infrequent and costly items of maintenance and replacement shown on the Nonroutine Maintenance Schedule for the Home (see paragraph b of this section). Such maintenance may include the replacement of dwelling equipment (such as range and refrigerator), replacement of roof, exterior painting, major repairs to heating and plumbing systems, etc. The NRMR shall not be used for nonroutine maintenance of common property, or for nonroutine maintenance relating to the Home to the extent such maintenance is attributable to the Homebuyer's negligence or to defective materials or workmanship.

b. *Amount of reserve.* The amount of the monthly payments to be set aside for NRMR shall be determined by the Authority, with the approval of HUD, on the basis of the Nonroutine Maintenance Schedule showing the amount estimated to be needed for nonroutine maintenance of the Home during the term of this Agreement, taking into consideration the type of construction and dwelling equipment. This Schedule shall (1) list each item of nonroutine maintenance (e.g., range, refrigerator, plumbing, heating system, roofing, tile flooring, exterior painting, etc.), (2) show for each listed item the estimated frequency of maintenance or useful life before replacement, the estimated cost of maintenance or replacement (including installation) for each occasion, and the annual reserve requirement, and (3) show the total reserve requirements for all the listed items, on an annual and a monthly basis. This Schedule shall be prepared by the Authority and approved by HUD as part of the submission required to determined the financial feasibility of the Project. The Schedule shall be revised after approval of the working drawings and specifications, and shall thereafter be reexamined annually in the light of changing economic conditions and experience.

c. *Charges to reserve.* (1) The Authority shall provide the nonroutine maintenance necessary for the Home and the cost thereof shall be funded as provided in paragraph (c)(2) of this section.

(2) The cost of nonroutine maintenance shall be charged to the NRMR for the Home except that (i) to the extent such maintenance is attributable to the fault or negligence of the Homebuyer, the cost shall be charged to the Homebuyer's EHPA after consultation with the HBA if the Homebuyer disagrees, and (ii) to the extent such maintenance is attributable to defective materials or workmanship not covered by warranty, or even though covered by warranty if not paid for through no fault or negligence of the Homebuyer, the cost shall be charged to the appropriate operating expense account of the Project.

(3) In the event the amount charged against the NRMR exceeds the balance therein, the difference (deficit) shall be made up from continuing monthly credits to the NRMR based upon the Homebuyer's monthly payments. If there is still a deficit when the Homebuyer acquires title, the Homebuyer shall pay such deficit at settlement.

d. *Transfer of NRMR.* (1) In the event this Agreement is terminated, the Homebuyer shall not receive any balance or be required to pay any deficit in the NRMR. When a subsequent Homebuyer moves in, the NRMR shall continue to be applicable to the Home in the same amount as if the preceding Homebuyer had continued in occupancy.

(2) In the event the Homebuyer purchases the Home, and there remains a balance in the NRMR, the Authority shall pay such balance to the Homebuyer at settlement. In the event the Homebuyer purchases the Home and there is a deficit in the NRMR, the Homebuyer shall pay such deficit to the Authority at settlement.

e. *Investment of excess.* (1) When the aggregate amount of the NRMR balances for all the Homes exceeds the estimated reserve requirements for 90 days, the Authority shall invest the excess in federally insured savings accounts, federally insured credit unions, and/or securities approved by HUD. Income earned on the investment of such funds shall be prorated and credited to each Homebuyer's NRMR in proportion to the amount in each reserve account.

(2) Periodically, but not less often than semi-annually, the Authority shall prepare a statement showing (i) the aggregate amount of all NRMR balances, (ii) the aggregate amount of investments (savings accounts and/or securities) held for the account of the NRMR and (iii) the aggregate uninvested balance of the NRMRs. A copy of this statement shall be made available to any authorized representative of the HBA.

12. *Operating reserve*—a. *Purpose of reserve.* To the extent that total operating receipts (including subsidies for operations) exceeds total operating expenditures of the Project, the LHA shall establish an operating reserve up to the maximum approved by HUD in connection with its approval of the annual operating budgets for the Project. The purpose of this reserve is to provide funds for (1) the infrequent but costly items of nonroutine maintenance and replacements of common property, taking into consideration the types of items which constitute common property, such as nondwelling structures and equipment, and, in certain cases, common elements of dwelling structures, (2) nonroutine maintenance for the Homes to the extent such maintenance is attributable to defective materials or workmanship not covered by warranty, (3) working capital for payment of a deficit in a Homebuyer's NRMR, until such deficit is offset by future monthly payments by the Homebuyer or at settlement in the event the Homebuyer should purchase, and (4) a deficit in the operation of the Project for a fiscal year, including a deficit resulting from monthly payments totaling less than the break-even amount for the Project.

b. *Nonroutine maintenance—common property (contribution to operating reserve).* The amount under this heading to be included in operating expense (and in the break-even amount) established for the fiscal year (see sections 8 and 9) shall be determined by the Authority, with the approval of HUD, on the basis of estimates of the monthly amount needed to accumulate an adequate reserve for the items described in paragraph a(1) of this section. This amount shall be subject to revision in the light of experience. This contribution to the Operating Reserve shall be made only during the period the Authority is responsible for the maintenance of any common property; and during such period, the amount shall be determined on the basis of the requirements of all common property in the Development in a manner similar to that explained in Section 9. When the Operating Reserve reaches the maximum authorized in paragraph c of this Section, the break-even (monthly operating expense) computations (see Sections 8 and 9) for the next and succeeding fiscal years need not include a provision for this contribution to the Operating Reserve unless the balance of the Reserve is reduced below the maximum during any such succeeding fiscal year.

c. *Transfer to Homeowners Association.* The Authority shall be responsible for and shall retain custody of the Operating Reserve until the Homeowners acquire voting control of the Homeowners Association (see sections 21c and 22f). When the Homeowners acquire voting control, the Homeowners Association shall then assume full responsibility for management and maintenance of common property under a plan approved by HUD, and there shall be transferred to the Homeowners Association a portion of the Operating Reserve then held by the Authority, as determined by the Authority with the approval of HUD.

d. *Disposition of reserve.* If, at the end of a fiscal year, there is an excess over the maximum Operating Reserve, this excess shall be applied to the operating deficit of the Project, if any, and any remainder shall be paid to HUD. Following the end of the fiscal year in which the last Home has been conveyed by the Authority, the balance of the Operating Reserve held by the Authority shall be paid to HUD, provided that the aggregate amount of payments by the Authority under this paragraph shall not exceed the aggregate amount of annual contributions paid by HUD with respect to the Project.

13. *Annual statement and copies of work orders to homebuyer.* a. The Authority shall maintain books of accounts and provide a statement at least annually to each Homebuyer which will show (1) the amount in his EHPA, and (2) the amount in the NRMR for his Home.

b. During the year, any maintenance or repair done on the dwelling by the Authority, which is chargeable to the EHPA or to the NRMR shall be accounted for through a work order. The Homebuyer shall receive a copy of all such work orders for his Home.

14. *Insurance.* a. Until transfer of title to the Homebuyer, the Authority shall carry all insurance prescribed by HUD including fire and extended coverage insurance upon the Home in such form and amount and with such company or companies as it determines. The Authority shall not carry any insurance on the Homebuyer's furniture, clothing, automobile, or any other personal property.

or personal liability insurance covering the Homebuyer.

b. In the event the Home is damaged or destroyed by fire or other casualty, the Authority shall consult with the Homebuyer as to whether the Home shall be repaired or rebuilt. If the Authority determines that the Home should not be repaired or rebuilt but the Homebuyer disagrees, the matter shall be submitted to HUD for final determination. If the final determination is that the Home should not be repaired or rebuilt, the Authority shall terminate this Agreement upon reasonable notice to the Homebuyer. In such case, the Homebuyer shall be paid the balance in his EHPA and (to assist him in connection with relocation expenses) the balance in his NRMR, less amounts, if any, due from him to the Authority, including Monthly Payments he may be obligated to pay.

c. In the event of termination or if the Home must be vacated during the repair period, the Authority will use its best efforts to assist in relocating the Homebuyer. If the Home must be vacated during the repair period, Monthly Payments shall be suspended during the vacancy period.

15. *Eligibility for continued occupancy.* a. The Homebuyer shall cease to be eligible for continued occupancy with the aid of HUD annual contributions when the Authority determines that his adjusted monthly income has reached the level, and is likely to continue at such level, at which the current amount of his required monthly payment equals or exceeds the monthly housing cost (see paragraph b of this section). In such event, if the Authority determines, with HUD approval, that suitable financing is available, the Authority shall notify the Homebuyer that he shall either (1) purchase the Home or (2) move from the Development; provided, however, that if the Authority determines that, due to special circumstances, the Homebuyer is unable to find decent, safe and sanitary housing within his financial reach although making every reasonable effort to do so, the Homebuyer may be permitted to remain for the duration of such a situation if he pays an increased monthly payment consistent with his adjusted monthly income; provided that this monthly payment shall not exceed the sum of the monthly break-even amount plus the monthly debt service amount shown on the Purchase Price Schedule for the Home, except that if the rent, including utilities, for comparable unsubsidized housing in the locality is lower, such lower amount may be established as the maximum if the Authority determines with HUD approval that this would be in the best interest of the project. Such an increased monthly payment shall also be payable by the Homebuyer if he continues in occupancy without purchasing the Home because suitable financing is not available.

b. The term "monthly housing cost," as used in this section means the sum of: (1) The monthly debt service amount shown on the Purchase Price Schedule (except where the Homebuyer can purchase the Home by the method described in section 16 below); (2) one-twelfth of the annual real property taxes which the Homebuyer will be required to pay as a Homeowner; (3) one-twelfth of the annual premium attributable to fire and extended coverage insurance carried by the Authority with respect to the Home; (4) the current monthly per unit amount budgeted for routine maintenance (EHPA) and routine maintenance-common property; and (5) the current Authority and HUD approved monthly allowance for utilities paid for directly by the Homebuyer plus the monthly cost of utilities supplied by the Authority.

16. *Achievement of ownership by initial homebuyer.*—a. *Determination of initial purchase price.* The Authority shall determine the initial purchase prices of the Homes by two basic steps, as follows:

Step 1: The Authority shall take the Estimated Total Development Cost (including the full amount for contingencies as authorized by HUD) of the Development as shown in the Development Cost Budget in effect upon award of the Main Construction Contract or execution of the Contract of Sale, and shall deduct therefrom the amounts, if any, attributed to (1) relocation costs, (2) counseling and training costs, (3) the cost of any community facilities including the land, equipment and furnishings attributable to such facilities as set forth in the development program for the Development and (4) the cost of any other land, buildings, equipment and other facilities which are not part of the property to be owned by Homebuyers or the Homeowners Association. The resulting amount is herein called Estimated Total Development Cost for Homebuyers.

Step 2: The Authority shall apportion the Estimated Total Development Cost for Homebuyers among all the Homes in the Development. This apportionment shall be made by obtaining an FHA appraisal of each Home, and adjusting such appraised values (upward or downward) by the percentage difference between the total of the appraisal for all the Homes and the Estimated Total Development Cost for Homebuyers. The adjusted amount for each Home shall be the Initial Purchase Price for that Home.

b. *Purchase Price Schedule.* The Homebuyer shall be provided with a Purchase Price Schedule showing (1) the monthly declining purchase price over a 30-year period,[3] commencing with the initial purchase price on the first day of the month following the effective date of this Agreement and (2) the monthly debt service amount upon which the Schedule is based. This Schedule and debt service amount shall be computed on the basis of the initial purchase price, a 30-year period,[3] and a rate of interest equal to the minimum loan interest rate as specified in the Annual Contributions Contract for the Project on the date of HUD approval of the Development Cost Budget, described in paragraph a of this section, rounded up, if necessary, to the next multiple of one-fourth of one percent (¼ percent).

c. *Methods of Purchase.* (1) The Homebuyer may achieve ownership when the amount in his EHPA, plus such portion of the NRMR as he wishes to use for the purchase, is equal to the purchase price as shown at that time on his Purchase Price Schedule plus all Incidental Costs ("Incidental Costs" means the costs incidental to acquiring ownership, including, but not limited to, the costs for a credit report, field survey title examination, title insurance, and inspections, the fees for attorneys other than the LHA's attorney, mortgage application and organization, closing and recording, and the transfer taxes and loan discount payment if any). If for any reason title to the Home is not conveyed to the Homebuyer during the month in which such circumstances occur, the purchase price shall be fixed at the amount specified for such month and the Homebuyer shall be refunded (i) the net additions, if any, credited to his EHPA subsequent to such month, and (ii) such part of the monthly payments made by the Homebuyer after the purchase price has been fixed which exceeds the sum of the break-even amount attributable to the Home and the interest portion of the debt service shown in the Purchase Price Schedule.

(2) Where the sum of the purchase price and Incidental Costs is greater than the amounts in the Homebuyer's EHPA and NRMR, the Homebuyer may achieve ownership by obtaining financing for or otherwise paying the excess amount. The purchase price shall be the amount shown on his Purchase Price Schedule for the month in which the settlement date for the purchase occurs.

d. The maximum period for achieving ownership shall be 30 years, but depending upon increases in the Homebuyer's income and the amount of credit which the Homebuyer can accumulate through maintenance and voluntary payments, the period may be shortened accordingly.

17. *Achievement of Ownership by Subsequent Homebuyer.* a. *Definition.* In the event the initial Homebuyer and his family vacate the Home before having acquired ownership, a subsequent occupant who enters into a Homebuyer's Ownership Opportunity Agreement and who is not a successor pursuant to section 25 is herein called "Subsequent Homebuyer."

b. *Determination of Initial Purchase Price.* The initial purchase price for a subsequent Homebuyer shall be an amount equal to (1) the purchase price shown in the initial Homebuyer's Purchase Price Schedule as of the date of this Agreement with the subsequent Homebuyer plus (2) the amount, if any, by which the appraised fair market value of the Home determined or approved by HUD as of the same date, exceeds the purchase price specified in (1). In the event such appraised value has not been determined by the date of execution of this Agreement, the amount of the Initial Purchase Price shall be inserted in part I, section D after this determination has been made, with appropriate initialling or signing by the parties.

c. *Purchase Price Schedule.* The Subsequent Homebuyer's Purchase Price Schedule shall be the same as the unexpired portion of the initial Homebuyer's Purchase Price Schedule except that where his purchase price includes an additional amount as specified in paragraph b(2) of this section, the initial Homebuyer's Purchase Price Schedule shall be followed by an Additional Purchase Price Schedule for such additional amount based upon the same monthly debt service and the same interest rate as applied to the initial Homebuyer's Purchase Price Schedule.

18. *Transfer of Title to Homebuyer.* When the Homebuyer is to obtain ownership, a closing date shall be mutually agreed upon by the parties. On the closing date, the Homebuyer shall pay the required amount of money to the Authority, sign the promissory note pursuant to section 19, and receive a deed for the Home.

19. *Payment Upon Resale at Profit*—a. *Promissory Note.* (1) When a Homebuyer (whether Initial or Subsequent Homebuyer achieves ownership, he shall sign a note obligating him to make a payment to the Authority, subject to the provisions of paragraph (a)(2) of this section, in the event he resells his Home at a profit within 5 years of actual residence in the Home after he becomes a Homeowner. If, however, the Homeowner should purchase and occupy another Home within one year (18 months in case of a newly constructed home) of the resale of the Turnkey III Home, the Authority shall refund to the Homeowner the amount previously paid by him under the note, less the amount, if any, by which the resale price of the Turnkey III Home exceeds the acquisition price of the new home, provided that application for such refund shall be made no later than 30 days after the date of acquisition of the new home.

(2) The note to be signed by the Homebuyer pursuant to paragraph (a)(1) of this section shall be secured by a second mortgage. The initial amount of the note shall be computed by taking the appraised value of the Home at the time the Homebuyer be-

[3] Change to 25-year period where appropriate pursuant to § 1270.101(b)(3) of this subpart.

comes a Homeowner and subtracting (i) the Homebuyer's purchase price plus the Incidental Costs and (ii) the increase in value of the Home, determined by appraisal, caused by improvements paid for by the Homebuyer with funds from sources other than the EHPA or NRMR. The note shall provide that this initial amount shall be automatically reduced by 20 percent thereof at the end of each year of residency as Homeowner, with the note terminating at the end of the five-year period of residency, as determined by the Authority. To protest the Homeowner, the note shall provide that the amount payable under it shall in no event be more than the net profit on the resale, that is, the amount by which the resale price exceeds the sum of (i) the Homebuyer's purchase price plus the Incidental Costs, (ii) the costs of the resale, including commissions and mortgage prepayment penalties, if any, and (iii) the increase in value of the Home, determined by appraisal, of improvements paid for by him as a Homebuyer (with funds other than from the EHPA or NRMR) or as a Homeowner.

(3) *Residency requirements.* The five-year note periods does not end if the Homeowner rents or otherwise does not use the Home as his principal place of residence for any period within the first five years after he achieves ownership. Only the actual amount of time he is in residence is counted and the note shall be in effect until a total of five years time of residence has elapsed, at which time the Homeowner may request the Authority to release him from the note, and the Authority shall do so.

20. *Responsibilities of homeowner.* After acquisition of ownership, the Homeowner shall pay to the Authority or to the Homeowners Association, as appropriate, a monthly fee for (a) the maintenance and operation of community facilities including utility facilities, if any, (b) the maintenance of grounds and other common areas, and (c) such other purpose as determined by the Authority or the Homeowners Association, as appropriate, including taxes and a provision for a reserve.

21. *Homeowners Association—Planned Unit Development (PUD)*[4]

If the Development is organized as a planned unit development:

a. The common areas, sidewalks, parking lots and other common property in the Development shall be owned and maintained as provided for in the approved planned unit development (PUD) program, except that the Authority shall be responsible for maintenance until such time as the Homeowners Association assumes such responsibility (see section 12 above).

b. The title ultimately conveyed to the Homebuyer shall be subject to restrictions and encumbrances to protect the rights and property of all other Homeowners. The Homeowners Association shall have the right and obligation to enforce such restrictions and encumbrances and to assess Homeowners for the costs incurred in connection with common areas and property and other responsibilities.

c. There shall be as many votes in the Association as there are Homes in the Development, and at the outset all the voting rights will be held by the Authority. As each Home is conveyed to a Homebuyer, one vote shall automatically go to that Homebuyer so that when all the Homes have been conveyed, the Authority shall no longer have any interest in the Homeowners Association.

d. The Authority shall not lose its majority voting interest in the Association as soon as a majority of the Homes have been conveyed, unless the law of the state requires control to be transferred at a particular time or the Authority so desires. If permitted by state law, provisions shall be made for each Home owned by the Authority to carry three votes while each Home owned by a Homeowner shall carry one vote. Under this weighted voting plan, the Authority will continue to have voting control until 75 percent of the Homes have been acquired by Homeowners. However, at its discretion, the Authority may transfer voting control to the Homeowners when at least 50 percent of the Homes have been acquired by the Homeowners.

22. *Homeowners Association—Condominium.*[5] If the Development is organized as a condominium:

a. The Authority at the outset shall own each condominium unit and the undivided interest of such unit in the common areas.

b. All the land, including that land under the housing units, shall be a part of the common areas.

c. The Homeowners Association shall own no property and shall merely maintain and operate the common areas for the individual owners of the condominium units, except that the Authority shall be responsible for maintenance until such time as the Homeowners Association assumes such responsibility (see section 12 above).

d. The percentage of undivided interest attached to each condominium unit shall be based on the ratio of the value of the unit to the value of all units and shall be fixed when the Development is completed. This percentage shall determine the Homeowner's liability for the maintenance of the common areas and facilities.

e. Each Homeowner vote in the Homeowners Association will be identical with the percentage of undivided interest attached to his unit.

f. The Authority shall not lose its majority voting interest in the Association as soon as units representing more than 50 percent of the value of all units have been conveyed, unless the law of the state requires control to be transferred at a particular time or the Authority so desires. For voting purposes, until units representing 75 percent of the value of all units have been acquired by Homeowners, the total undivided interest attributable to the Homes owned by the Authority shall be multiplied by three, if such weighted voting plan is permitted by state law. Under this plan, the Authority will continue to have voting control until units representing 75 percent of the value of all units have been acquired by Homeowners. However, at its discretion the Authority may transfer voting control to the Homeowners when units representing at least 50 percent of the value of all units have been acquired by the Homeowners.

23. *Relationship of Homeowners Association to Homebuyers Association.* The Homebuyers Association and the Authority may make arrangements with the Homeowners Association to permit Homebuyers to participate in Homeowners Association matters which affect the Homebuyers. Such arrangements may include rights to attend meetings and to participate in Homeowners Association deliberations and decisions.

24. *Termination of Agreement.* a. *Termination by the Authority.* (1) In the event the Homebuyer should breach this Agreement by failure to make a required Monthly Payment within 10 days after its due date, by misrepresentation or withholding of information in applying for admission or in connection with any subsequent reexamination of income and family composition, or by failure to comply with any other Homebuyer obligation under this Agreement, the Authority may terminate this Agreement 30 days after giving the Homebuyer notice of its intention to do so in accordance with paragraph (3) of this section.

(2) In the event the Authority determines that the Homebuyer no longer meets the standards of potential for Homeownership and that a suitable dwelling unit is available for immediate occupancy in an Authority rental project, the Authority may terminate this Agreement and offer the Homebuyer such other dwelling unit 30 days after giving the Homebuyer notice of the termination and the offer in accordance with paragraph (3) of this section. The standards of potential for homeownership are the following:

(i) Income sufficient to result in a required monthly payment which is not less than the sum of the amounts necessary to pay the EHPA, the NRMR, and the estimated average monthly cost of utilities attributable to the home.

(ii) Ability to meet all the obligations of a Homebuyer under the Homebuyers Ownership Opportunity Agreement.

(iii) At least one member gainfully employed, or having an established source of continuing income.

(3) Notice of termination by the Authority shall be in writing. Such notice shall state (i) the reason for termination, (ii) that the Homebuyer may respond to the Authority, in writing or in person, within a specified reasonable period of time regarding the reason for termination, (iii) that in such response he may be represented or accompanied by a person of his choice, including a representative of the HBA, (iv) that the Authority will consult the HBA concerning the termination, and (v) that, unless the Authority rescinds or modifies the notice the termination will be effective at the end of the 30-day notice period.

b. *Termination by the Homebuyer.* The Homebuyer may terminate this Agreement by giving the Authority 30 days notice in writing of his intention to terminate and to vacate the Home. In the event that the Homebuyer abandons the Home, or vacates it without notice to the Authority, this Agreement shall be terminated automatically and the Auhority may dispose of, in any manner deemed suitable by it, any items of personal property abandoned by the Homebuyer in the Home.

25. *Survivorship.* In the event of death, mental incapacity or abandonment of the family by the Homebuyer, the person designated as the successor in part I of this Agreement shall succeed to the rights and responsibilities under the Agreement if that person is an occupant of the Home at the time of the event and is determined by the Authority to meet all of the standards of potential for homeownership as set forth in section 24a. This designation may be changed by the Homebuyer at any time. If there is no such designation or the designee is no longer an occupant of the Home or does not meet the standards of potential for homeownership, the Authority may consider as the Homebuyer any family member who was in occupancy at the time of the event and who meets the standards of potential for homeownership. If there is no qualified successor in accordance with this Section, the Authority shall terminate the Agreeemnt and a Subsequent Homebuyer shall be selected.

26. *Nonassignability and Use of Reserves and Accounts.* a. *Nonassignability.* The Homebuyer shall not assign this Agreement, or assign, mortgage or pledge any right or interest in the Home or in this Agreement including any right or interest in any re-

[4] If this Home is a Development of scattered sites, delete both sections 21 and 22. If this Home is a Planned Unit Development, delete section 22. If this Home is in Condominium, delete section 21.

[5] If this Home is a Development of scattered sites, delete both section 21 and 22. If this Home is in a Planned Unit Development, delete section 22. If this Home is in Condominium, delete section 21.

serve or account, except with the prior written approval of the Authority and HUD.

b. *Use of Reserves and Accounts.* It is understood and agreed that the Homebuyer shall have no right to receive or use the money in any reserve or account created pursuant to this Agreement except for the limited purposes and under the special circumstances set forth by the terms of this Agreement. It is further understood and agreed that both the Authority and HUD have a financial and a governmental interest in the Earned Home Payments Account and other reserves as security for the financial integrity of the Development, as a means of savings in cost to the Government by minimizing the amount and period over which HUD annual contributions must be paid, and as a means of advancing the public interest and welfare by assisting low-income families to achieve homeownership.

27. *Notices.* Any notice required hereunder or by law shall be sufficient if delivered in writing to the Homebuyer personally or to an adult member of his family residing in the dwelling unit or if sent by certified mail, return receipt requested, property addressed to the Homebuyer, postage prepaid. Notice to the Authority shall be in writing, and either delivered to any Authority employee at the office of the Authority or sent to the Authority by certified mail, properly addressed, postage prepaid.

28. *Grievance Procedure.* All grievances or appeals arising under this Agreement shall be processed and resolved pursuant to the grievance procedure of the Authority, which procedure shall provide for participation of the HBA in the grievance process. This grievance procedure shall be posted in the Authority's Office.

APPENDIX III

(Subpart B)

CERTIFICATION OF HOMEBUYER STATUS

State of_____} ss
County of_____}

This is to certify that _____ (Homebuyer)

of the Home located at _____:

(1) has achieved, within the first two years of his occupancy a balance in his Earned Home Payments Account (EHPA) of at least _____ dollars (representing 20 times the amount of the monthly EHPA credit applicable to said Home);

(2) has met and is continuing to meet the requirements of his Homebuyers Ownership Opportunity Agreement; and

(3) has rendered and is continuing to render satisfactory performance of his responsibilities to the Homebuyers Association.

Accordingly, said Homebuyer may, upon payment of the purchase price, exercise the option to purchase the Home in accordance with and subject to the provisions of his Homebuyers Ownership Opportunity Agreement.

Housing Authority	Homebuyers Association
By _____ (Signature and official title)	By _____ (Signature and official title)
(Date)	(Date)

APPENDIX IV

(Subpart B)

PROMISSORY NOTE FOR PAYMENT UPON RESALE BY HOMEBUYER AT PROFIT

FOR VALUE RECEIVED, _____ (Homeowner) promises to pay to _____ (Authority) or order, the principal sum of _____[1] Dollars ($_____), without interest, on the date of resale by the Homeowner of the property conveyed by the Authority to the Homeowner.

Such principal sum shall be reduced automatically by 20 percent of the initial amount at the end of each year of such residency, as a Homeowner, and this note shall terminate at the end of five years of such residency, as determined by the Authority; Provided, however, that the amount payable under this note shall in no event be more than the net profit on the resale, that is, the amount by which the resale price exceeds the sum of (1) the Homeowner's purchase price, (2) the costs incidental to his acquisition of ownership, (3) the costs of the resale, including commissions and mortgage prepayment penalties, if any, and (4) the increase in value of the Home, determined by appraisal, due to improvements paid for by the Homeowner whether as a Homebuyer (with funds from sources other than his Earned Home Payments Account or his Nonroutine Maintenance Reserve) or as a Homeowner.

If the Homeowner shall pay this note at the time and in the manner set forth above, or if, by its provisions, the amount of this note shall be zero, then the note shall terminate and the Authority shall, within thirty (30) days after written demand therefor by the Homeowner, execute a release and satisfaction of this note. The Homeowner hereby waives the benefits of all statutes or laws which require the earlier execution or delivery of such release and satisfaction by the Authority.

Presentment, protest, and notice are hereby waived.

Dated _____, 19__

Local Housing Authority	Homeowner
By: _____	_____ Homeowner's Spouse

Subpart C—Homeownership Counseling and Training

§ 1270.201 Purpose.

The purpose of the counseling and training program shall be to assure that the homebuyers, individually and collectively through their homebuyers association (HBA), will be more capable of dealing with situations with which they may be confronted, making decisions related to these situations, and understanding and accepting the responsibility and consequences that accompany those decisions.

§ 1270.202 Objectives.

The counseling and training program should seek to achieve the following objectives:

(a) Enable the potential homebuyer to have a full understanding of the responsibilities that accompany his participation in the homeownership opportunity program;

(b) Enable the potential homebuyer to have an understanding of homeownership tasks with specific training given to individuals as the need and readiness for counseling or training indicates;

(c) Assure that the role of the HBA is understood and plans for its organization are initiated at the earliest practical time;

(d) Develop an understanding of the role of the LHA and of the need for a cooperative relationship between the homebuyer and the LHA;

(e) Encourage the development of self-help by the homebuyer through reducing dependency and increasing independent action;

(f) Develop an understanding of mutual assistance and cooperation that will develop a feeling of self-respect, pride and community responsibility;

(g) Develop local resources that can be of assistance to the individual and the community on an on-going basis.

§ 1270.203 Planning.

(a) The counseling and training program shall be flexible and responsive to the needs of each prospective homebuyer. While many subjects lend themselves to group sessions, consideration shall be given to individual counseling. Individuals should not be required to attend training classes on subject matter they are familiar with unless they can actively participate in the instruction process.

(b) The program may be provided by contract with an outside organization, or by the LHA staff, in either case with voluntary involvement and assistance of groups and individuals within the community. It is essential that the training entity be completely knowledgeable and supportive of the entire Homeownership Opportunity Program. It may be recognized that most of the objectives stated require specialized instructional skill and content knowledge. There shall be recognition of the differences in communication and in value systems, and an understanding and respect for past experience of the individual. Maximum possible use shall be made of indigenous trainers to insure good communication and rapport. Special attention shall be directed to the needs of working members of the family for counseling and training sessions to be held where and during the time they can attend. Where the services of outside contractors are utilized, there shall be a close working relationship with the LHA and a program for phasing in LHA staff who will have the on-going responsibility for the program. The value of local agencies, educational institutions, etc., for implementing the program rather than an outside firm shall be carefully considered since the continuing presence of such agencies and institutions in the community can often develop into an on-going resource beyond the contract period.

(c) In planning a homeownership counseling and training program, whether self-administered or contracted, the LHA shall consult with HUD for advice and information on programs, qualified contractors, local resources, reasonable costs, and other similar matters.

(d) Where the program is to be contracted to an outside group, proposals shall be secured either by public advertising or by sending requests for proposals to a number of competent public or private organizations.

(e) In areas where there are large concentrations of homebuyers who do

[1] Amount determined in accordance with section 19 of the Homebuyers Ownership Opportunity Agreement.

not read, write, or understand English fluently, the native language of the people shall be used. If feasible all instructional materials shall be in both languages.

§ 1270.204 General requirements and information.

(a) The counseling and training program shall be designed to meet the needs of the homebuyers and be sufficiently flexible to meet new needs as they arise. The nature of the program suggests four phases of counseling: (1) Pre-occupancy; (2) move-in; (3) post-occupancy; (4) assistance to the HBA. While some elements of the program lend themselves more to one phase than another, the program areas shall be coordinated and interrelated. It is recommended that the entity providing these services work closely with the participants and ensure that policies established are agreeable to both the LHA and the homebuyer.

(b) The following is a description of major elements of the program which experience thus far has shown to be relevant. More detailed information is set forth in Appendix I, "Content Guide for Counseling and Training Program."

(1) *Pre-occupancy phase.* The purpose of this phase is to prepare the selected families to assume the responsibilities of homeownership, and to provide an opportunity for the LHA and each family to reassess the family's potential for successful participation in the homeownership development.

(i) An overload of information should be avoided in this phase since many of the subjects will be dealt with in greater depth after the family is in occupancy, and experience has shown that much of the information will be more relevant at that time.

(ii) This phase should be completed for each family before the beginning of its occupancy.

(2) *Move-in phase.* During this phase, the counseling and training staff should be available to the homebuyers on an individual basis. Services may include (i) inspecting the units, interior and exterior, with the homebuyers and a representative of the LHA, (ii) testing appliances and equipment, (iii) providing information on the moving process (packing, trucks, etc.), and (iv) assisting homebuyers in making adjustments occasioned by the move, serving as liaison among homebuyers, LHA, builder and other agencies, and assisting homebuyers in meeting new neighbors.

(3) *Post-occupancy phase.* Before this phase begins, a period (possibly one month) should elapse to allow homebuyers an opportunity to adjust to their new surroundings. This is a time when new questions and problems come to light that can be dealt with in further counseling and training. This phase should be designed to cover many of the same basic subjects as the pre-occupancy phase, both by review and refresher where necessary but in much greater depth.

(4) *Assistance to the HBA.* The parties responsible for the counseling and training program shall be responsible for the formation, incorporation, and development of the HBA, including the execution of the Recognition Agreement between the LHA and HBA, as provided in subpart D of this part.

§ 1270.205 Training methodology.

Equal in importance to the content of the pre- and post-occupancy training is the training methodology. Because groups vary, there should be adaptability in the communication and learning experience. Methods to be utilized may include group presentations, small discussion groups, special classes, and workshops. Especially important to a successful program are individual family home visits for discussion and instruction on unique problems and operation of equipment.

§ 1270.206 Funding.

(a) *Source of funds.* For purpose of funding counseling and training pursuant to this Subpart and for establishing the HBA, the LHA shall include an amount equal to $500 per dwelling unit in the development cost budget. If additional funds should be needed for any of these purposes, the LHA with the assistance of the CPC, if any, shall explore all other possible sources of services and funds.

(b) *Planned use of $500-per-unit funds.* These funds are to be used to pay for:

(1) Pre- and post-occupancy counseling and training;

(2) Establishment and initial operation of the HBA (for operation in the management phase, see § 1270.305).

In planning the use of these funds, the LHA shall recognize that for a number of years after the initial counseling and training there is likely to be some turnover and follow-up counseling and training needs. Therefore, the LHA shall limit the amounts for the counseling and training of the initial homebuyers and shall reserve a reasonable amount for future counseling and training needs during the management phase of the development.

(c) *Period of availability of $500-per-unit funds.* These funds shall be available during the development phase, and a specific amount shall be set aside, in accordance with paragraph (b) of this section, to be used for ongoing needs after the close of the development period.

(d) *Budgeting of $500-per-unit funds.* (1) The Development Cost Budget submitted with the Development Program shall include an estimated amount for counseling and training program costs. However, such costs shall not be incurred until after HUD approval of the counseling and training program.

(2) Upon HUD approval of the counseling and training program, the LHA shall include the approved amount in its Contract Award Development Cost Budget. This amount shall constitute the maximum amount that may be included for such purposes in the project development cost; provided that, if the approved amount is less than $500 per dwelling unit, it may, if necessary, be amended with HUD approval, but not later than the Final Development Cost Budget and subject to the $500-per-unit limitation.

(e) *Application for approval of counseling and training program.* (1) The LHA shall submit an application for approval of a counseling and training program and for approval of funds therefor. This application shall be submitted to HUD at the time of the submission of the development program or as soon thereafter as possible but no later than the submission of the working drawings and specifications.

(2) The application shall include a narrative statement outlining the counseling and training program, including any services and funds to be obtained from other sources, together with copies of any proposed contract and other pertinent documents. This statement shall include the following:

(i) Indication that the training entity is completely knowledgeable of the Homeownership Opportunity Program and is aware of the needs and problems of prospective homebuyers;

(ii) The method and/or instruments to be used to determine individual training and counseling needs;

(iii) The scope of the proposed program, including a detailed breakdown of tasks to be performed, products to be produced, and a time schedule, including provision for progress payments for specific tasks;

(iv) An outline of the proposed content of the counseling and training to be provided, and the local community resources to be utilized;

(v) The methods of counseling and training to be utilized;

(vi) The experience and qualifications of the organization and of personnel who will directly provide the counseling and training;

(vii) The estimated cost, source of funds, and methods of payment for the tasks and products to be performed or produced, including estimates of costs for each of the following categories:

(a) Counseling and training during development phase:

Salaries
Materials, supplies and expendable equipment
Contract costs
Other costs

(b) Establishment and initial operation of HBA

(c) Counseling and training during management phase

§ 1270.207 Use of appendix.

A Content Guide for Counseling and Training Program (Appendix I) is provided as further detailed information for consideration in designing the counseling and training program. The items set forth therein are not to be considered mandatory.

APPENDIX I

CONTENT GUIDE FOR COUNSELING AND TRAINING PROGRAM

Inclusion of the following items in the Counseling and Training Program should be considered, keeping in mind that the extent to which they are covered will depend on spe-

cific needs of homebuyers in the given development.

PREOCCUPANCY PHASE

1. *Explanation of program.* Includes the background and a full description of the program with special emphasis on the financial and legal responsibilities of the homebuyers, the HBA, and the LHA; and a review for homebuyers of the computation of the monthly payment and of the accumulation and purpose of EHPA and reserves.

2. *Property care and maintenance.* Includes making homebuyers generally familiar with the overall operation of the home, including fixtures, equipment, interior designing, and building and equipment warranties, and the appropriate procedures for obtaining services and repairs to which the homebuyers may be entitled. (This aspect will probably have to be covered in more detail during the Post-Occupancy Phase.)

3. *Money management.* Includes budgeting, consumer education, credit counseling, insurance, utility costs, etc.

4. *Developing community.* Includes a view of the surrounding community, and especially how the homebuyer relates to it as an individual and as a member of the HBA.

5. *Referrals.* Includes information as to community resources and services where assistance can be obtained in relation to individual or family problems beyond the scope of the contract agency. This may include referrals to community services that can upgrade employment skills, provide legal services, offer educational opportunities, care for health and dental needs, care for children of working mothers, provide guidance in marital problems and general family matters, including drugs and alcohol.

POST-OCCUPANCY PHASE

1. *Home maintenance.* This should include builder responsibility, identification of minor and major repairs, instructions on do-it-yourself repairs and methods of having major repairs completed.

2. *Money management.* This should involve an in-depth study of the legal and financial aspects of consumer credit, savings and investments, and budget counseling.

3. *Developing community.* This will consist primarily of creating an awareness on the part of the homebuyer of the nature and function of the HBA and the value of his participation in, and working through, the HBA as a responsible member of his community. By this means much will be learned about relationships with neighbors, community cooperation, and the ways in which individual and group problems are solved.

OTHER ITEMS

In addition to the above, there are other needs and concerns, especially those expressed by the homebuyers, that may be dealt with in special classes or workshops. These may include such topics as child care, selection of furnishings, decorating and furnishing, refinishing of furniture, upholstery, sewing, food and nutrition, care of clothing, etc.

Subpart D—Homebuyers Association (HBA)

§ 1270.301 Purpose.

(a) It is essential that the homebuyers have an organized vehicle for pursuing their common interests, for effectively representing the needs of residents in dealing with the LHA, and for undertaking eventual management responsibility for the development. Although this organization, called the homebuyers association (HBA), shall be representative of the homebuyers and independent of the LHA, it shall be the responsibility of the LHA and the training and counseling staff to assist the homebuyers in their initial efforts at organization.

(b) Except as noted in § 1270.307, each Turnkey III development shall have an HBA. There shall be a separate HBA for each development or developments where there is a physical and financial community of interest.

§ 1270.302 Membership.

Every family entitled to occupancy pursuant to a Homebuyers Ownership Opportunity Agreement and every family which is a homeowner shall automatically be a member of the HBA.

§ 1270.303 Organizing the HBA.

(a) The HBA should be organized and incorporated as early in the life of the development as is feasible, in order to allow selected homebuyers an opportunity to meet each other and begin forging a sense of community, but in any case the HBA shall be organized and incorporated no later than the date on which 50 percent of the homebuyers have been selected. Interim officers and directors shall be designated as part of the initial organization of the HBA to serve until full-term officers and directors are elected. Such full-term officers and directors shall be elected when 60 percent of the homebuyers are in occupancy, but, in any event, not later than one year from the date the first home is occupied.

(b) The LHA, in cooperation with the CPC, if any, shall be responsible for assuring that competent counseling and training assistance pursuant to subpart C of this Part will be provided in organizing the HBA. These services shall be continued until the HBA is fully operational.

(c) The provision of such services shall include at least the following functions:

(1) Assembling homebuyers for initial orientation and planning;

(2) Explaining to homebuyers the structure and functions of an HBA and the rights and responsibilities of the HBA and the LHA;

(3) Aiding in the preparation of charters, by-laws, contracts with the LHA and other appropriate documents;

(4) Assisting in the formation of the organization, including such things as the initial designation of interim officers and directors and subsequent election of full-term HBA officers and directors, and the establishment of necessary committees, if any.

(d) The LHA and the HBA shall execute an agreement recognizing the HBA as the official representative of the homebuyers, and establishing the functions, rights, and responsibilities of both parties (see Appendix II). This agreement shall be executed as soon as possible after incorporation of the HBA.

§ 1270.304 Functions of the HBA.

(a) Subject to possible variations agreed to by the HBA and approved by HUD, the functions of the HBA shall include the following:

(1) Representing its members, individually and collectively, with respect to any deficiencies in the development or in the homes and with respect to fulfillment of the construction contract and related warranties;

(2) Representing its members, individually and collectively, in their relationships with the LHA and others in regard to financial matters such as monthly payments, credits to and charges against reserves, settlement upon vacating the home, acquisition of ownership, and other matters pertaining to operation and management of the development;

(3) Recommending policies and rules to the LHA for operation and management including rules concerning use of the common areas and community facilities;

(4) Participating in the operation of official grievance mechanisms;

(5) Advising and assisting its members regarding procedures and practices relative to the Earned Home Payments Account and the acquisition of homeownership;

(6) Participating with the LHA in periodic maintenance inspections of homes after occupancy, and making recommendations in case of disagreements arising out of maintenance inspections;

(7) Participating with the LHA in the selection of subsequent homebuyers;

(8) Coordinating, supervising, or managing the operation of credit union, child care, or other supportive services established for the development;

(9) Participating with the LHA in the establishment and implementation of policies related to collection of monthly payments, termination of occupancy, and resolution of hardship situations; and

(10) Performing management services as specified under contract with the Authority or with the Homeowners Association and participating in other activities pursuant to agreement with the LHA or with the Homeowners Association.

(b) In addition, the HBA may offer such special services as the following:

(1) The development of self-help such as consumer clubs, furniture and other co-ops, credit unions, transportation pools, and skill pools;

(2) Assisting homebuyers in acquiring group insurance;

(3) Developing programs and contracting for services such as child care centers to be located in the community facility where such a facility exists;

(4) Assisting homebuyers in their employment, especially by participating in skill development and apprenticeship programs in cooperation with local educational organizations;

(5) Assisting homebuyers in planning the management role of the HBA and in negotiating any contract for management services with the LHA.

§ 1270.305 Funding of HBA.

(a) In addition to providing the HBA with noncash contributions such as office space and duplicating services, the LHA shall make cash contributions for operating expenses of the HBA, in the amount provided for in paragraph (b) of this section. Until the project goes into

management, these contributions shall be made from the development funds budgeted for the counseling and training program (see § 1270.206). Thereafter, these contributions shall be provided for in the annual operating budgets of the LHA.

(b) The cash contributions pursuant to paragraph (a) of this section shall be in the amount provided for in the LHA budget (development cost budget or annual operating budget, as the case may be) and approved by HUD. Such contributions shall be subject to whatever restrictions are applied by HUD to the funding of tenant councils generally, but they shall not exceed $3 per year per dwelling unit; provided that as an incentive to the HBA to provide additional funds from other sources such as homebuyer's dues, contributions, revenues from special projects or activities, etc., the LHA shall, to the extent approved by HUD in the LHA budget, match such additional funds beyond the $3 up to a maximum of $4.50, for a total LHA share of $7.50 where the total funding for the HBA is $12 or more. The HBA shall not be precluded from seeking to achieve total funding in excess of $12 per unit where this can be done with additional funds from sources other than the LHA. Furthermore, funding by the LHA for the normal expenses of the HBA is not to be confused with fees paid pursuant to management services contracts as described in § 1270.306.

§ 1270.306 Performing management services.

The LHA may also contract with the HBA to perform some or all of the functions of project management for which the HBA may be better suited or located than the LHA. Such functions may include security, maintenance of common property, or collection of monthly payments. For this purpose, the HBA may form a management corporation and the officers of the HBA shall be the directors of such corporation. This corporation and the LHA shall then negotiate a management services contract. Such arrangements are consistent with the objective of providing for maximum participation by residents in the management of their developments. As an alternative, the HBA and the LHA may elect to undertake any other arrangement approved by HUD.

§ 1270.307 Alternative to HBA.

Where the homes are on scattered sites (noncontiguous lots throughout a multiblock area, with no common property), or where the number of homes may be too few to support an HBA, and where an alternative method for homebuyer representation and continuing counseling is provided, an HBA shall not be required. For such cases, a modified form of homebuyers association may be called for or a less formal organization may be desirable. This decision shall be made jointly by the LHA and the homebuyers, acting on the recommendation of HUD.

§ 1270.308 Relationship with homeowners association.

The HBA and the homeowners association are, in legal terms, separate and distinct organizations with different functions. The homeowners association may hold title to and be responsible for maintenance of common property (see § 1270.119 and § 1270.120), while the HBA has more general service and representative functions. While all residents are members of the HBA, only those who have acquired title to their homes are members of the homeowners association.

§ 1270.309 Use of appendices.

Use of the Articles of Incorporation (Part I of Appendix I) and the Recognition Agreement between the Local Housing Authority and Homebuyers Association (Appendix II) is mandatory for projects developed under Subpart B of this Part which have homebuyers associations. No modification may be made in format, content or text of these Appendices except (1) as required under state or local law as determined by HUD or (2) with approval of HUD. The By-Laws of the Homebuyers Association is provided as a guide for such projects and it may be used or modified to the extent required by the HBA and LHA respectively to meet local needs and desires.

§ 1270.310 Waivers.

Upon determination of good cause, the Secretary of Housing and Urban Development may, subject to statutory limitations, waive any provision of this Chapter. Each such waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds.

APPENDIX I

ARTICLES OF INCORPORATION AND BY-LAWS OF _____ HOMEBUYERS ASSOCIATION

Part I—*Articles of Incorporation*

In compliance with the requirements of

_____

(reference to statute under which incorporation is sought)

the undersigned, all of whom are natural persons, residents of _____, of full age, have this day voluntarily associated themselves together for the purpose of forming a Corporation, not-for-profit, and do hereby certify:

ARTICLE I—NAME

The name of the corporation is _____ Homebuyers Association (hereinafter referred to as the "Association").

ARTICLE II—OFFICE

The principal office of the Association is located at _____.

ARTICLE III—AGENT

_____, whose address is _____, is hereby appointed the initial registered agent of the Association.

ARTICLE IV—DURATION

The period of duration of the Association is perpetual.

ARTICLE V—MEMBERSHIP

Membership in the Association shall be limited to families who are entitled to occupancy of a Home in the Development pursuant to a Homebuyers Ownership Opportunity Agreement and families who are Homeowners in the Development, and all such families shall automatically be members so long as they are in occupancy of a Home. For purposes of these Articles, the term "Development" includes the following described Development or Developments in the Homeownership Opportunity Program of _____ (hereinafter referred to as the Authority):

_____

_____

_____

ARTICLES VI—PURPOSES

The purposes for which this Association is formed shall not result in pecuniary gain or profit to the members thereof. These purposes are to provide organization and representation for its members in their relationships with the Authority in all matters regarding the homeownership opportunity program and, if appropriate, to perform management responsibilities for the Development under contract with the Authority.

1. In order to carry out these purposes, the Association shall perform the following functions:

a. Represent its members, individually and collectively, with respect to any deficiencies in the Development or in the Homes and with respect to fulfillment of the construction contract and related warranties;

b. Represent its members, individually and collectively, in their relationships with the Authority and others in regard to financial matters such as monthly payments, credits to and charges against reserves, settlement upon vacating a Home, and acquisition of ownership, and other matters pertaining to operation and management of the development;

c. Recommend policies and rules to the Authority for operation and management including rules concerning use of the common areas and community facilities;

d. Participate in the operation of official grievance mechanisms;

e. Advise and assist its members regarding procedures and practices relative to their Earned Home Payments Accounts and to their acquisition of homeownership;

f. Participate with the Authority in periodic maintenance inspections of the Homes after occupancy and make recommendations in case of disagreement arising out of maintenance inspections;

g. Participate with the Authority in the selection of subsequent homebuyers;

h. Coordinate, supervise, or manage the operation of credit union, child care, or other supportive services established for the Development;

i. Participate with the Authority in the establishment and implementation of policies related to collection of monthly payments, termination of occupancy, and resolution of hardship situations;

j. Perform management services as specified under contract with the Authority or with the Homeowners Association and participate in other activities pursuant to agreement with the Authority or with the Homeowners Association.

2. The Association may also offer special services such as:

a. The development of self-help such as consumer clubs, furniture and other co-ops, credit unions, transportation pools, and skill pools;

b. Assisting Homebuyers in acquiring group insurance;

c. Developing programs and contracting for services such as child care centers to be located in the community facility, where such a facility exists;

d. Assisting Homebuyers in their employment, especially by participating in skill development and apprenticeship programs in cooperation with local educational organizations; and

e. Assisting Homebuyers in planning the management role of the Association and in negotiating any contract for management services with the Authority.

ARTICLE VI—POWERS

This Association shall have all the powers, privileges, rights and immunities which are necessary or convenient for carrying out its purposes and which are conferred by the provisions of all applicable laws of the State of _____ pertaining to non-profit corporations.

ARTICLE VIII—VOTING

There shall be only one vote per Home regardless of the number of persons in the family that occupies the Home.

ARTICLE IX—BOARD OF DIRECTORS AND BY-LAWS

The affairs of the Association shall be managed by a Board of Directors, all of whom shall be members of the Association. The number of Directors shall be as provided in the By-Laws of the Association. The following persons shall serve as the first Board of Directors and as the first officers:

Name	Office	Address
_____	_____	_____
_____	_____	_____
_____	_____	_____

This Board shall manage the affairs of the Association until election of their successors by the membership.

Promptly after 60 percent of the Homes are occupied, or one year from the date the first Home is occupied, whichever occurs sooner, the Board shall call the first annual meeting of the Association at which the members shall adopt By-Laws and elect one-third of the Board for a term of one year, one-third for a trem of two years, and one-third for a term of three years. At each annual meeting thereafter the members shall elect one-third of the Board for a term of three years.

ARTICLE X—DISSOLUTION

After all members have acquired ownership of their Homes, the Association shall be dissolved with the assent given in writing and signed by not less than two-thirds of the members. The dissolution shall be effective when all of the assets of the Association remaining after payment of its liabilities have been granted, conveyed and assigned in such manner as the Association and Authority may mutually agree.

ARTICLE XI—AMENDMENT

Amendment of these Articles shall require the assent of 75 percent of the entire membership.

In witness whereof, for the purposes of incorporating this Association under the laws of the State of _____, we, the undersigned constituting the incorporators of this Association, have executed these Articles of Incorporation this _____ day of _____, 19____.

_____

_____

_____

_____

_____

[Witness, Notary, or Acknowledgment as required by state law]

[NOTE.—The following is a suggested form of By-Laws. Different format and content to meet local needs may be used. For example, it may be considered desirable to combine HBA offices, eliminate or change functions of various committees, provide for other committees, etc.]

Part II—*By-Laws*

The members of the _____ Homebuyers Association (hereinafter referred to as the "Association") do hereby adopt in accordance with Article IX of the Articles of Incorporation the following By-Laws:

SECTION 1. *Organization.*—The affairs of the Association shall be managed by a Board of Directors elected by and from the members of the Association. The Board shall elect officers of the Association, including a President, Vice President, Secretary, and Treasurer, who shall carry out such functions and duties as are prescribed by these By-Laws and the Board.

SEC. 2. *Association meetings.*—A. *Annual meetings.* The Association shall have an annual meeting at _____ (time) on the _____ (day of week and month) each year for the purpose of transacting such business as may be necessary or appropriate. If the date of the annual meeting is a legal holiday, the meeting shall be held at the same hour on the first day following which is not a legal holiday.

B. *Quarterly and special meetings.* Between annual meetings, quarterly meetings shall be called by the President and be held for the purpose of advising the membership of activities of the Board and enabling the members to bring up matters of common concern. Special meetings may be called at any time (1) by the President with the written concurrence of at least two of the other officers or (2) by a petition filed with the Secretary stating the purpose of the meeting and signed by at least one-fifth of the total number of members in the Association.

C. *Notice of meetings.* Written notice of each annual, quarterly or special meeting of the members shall be given by, or at the direction of, the Secretary by mailing a copy of such notice at least fifteen days before an annual or quarterly meeting or at least seven days before a special meeting, addressed to each member at the member's address shown on the records of the Association. Such notice shall specify the place, date, and hour of the meeting and, in the case of a special meeting, the purpose of such meeting. No business shall be transacted at any special meeting other than that stated in the notice unless by consent of at least one-half of the total number of votes of the Association.

D. *Quorum.* A quorum at any meeting shall consist of members entitled to cast votes which represent at least one-tenth of the votes of the Association. If such a quorum is not present, those present shall have the power to reschedule the meeting from time to time without notice other than an announcement at the meeting until there is a quorum. At any rescheduled meeting at which a quorum is present, the only business which may be transacted is that which might have been transacted at the original meeting.

E. *Voting.* Each family shall designate in writing to the Secretary the family member who is to cast the family vote. That designee may appoint as a proxy for a specific meeting any other member of the Association. A proxy must be in writing and filed with the Secretary not later than the time that meeting is called to order. Every proxy shall be revocable and shall be automatically revoked when the person who appointed the proxy attends the meeting or ceases to have voting privileges in the Association. Votes represented by proxy shall be counted in determining the presence or absence of a quorum at any meeting.

F. *Agenda.* An agenda shall be prepared for every meeting.

SEC. 3. Board of Directors—A. *Number of directors.* The affairs of the Association shall be managed by a Board of _____ Directors, all of whom shall be members of the Association. The number of Directors may be changed by amendment of the By-Laws of the Association.

B. *Term of Office.* The Board of Directors shall be elected at the annual meeting of the Association. At the first annual meeting, the members shall elect _____[1] Directors for a term of one year, _____[1] Directors for a term of two years, and _____[1] Directors for a term of three years. At each annual meeting thereafter the members shall elect _____[1] Directors for a term of three years.

C. *Removal and other vacancies of Directors.* Any Director may be removed from the Board, for cause, by a majority of the votes of the Association at any annual or quarterly meeting or any special meeting called for such purpose, provided that the Director has been given an opportunity to be heard at such meeting. In the event of death, resignation or removal of a Director, his successor shall be elected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

D. *Chairman of the Board.* At the first regular Board meeting after each annual meeting, the Board of Directors shall elect a Chairman from among their number.

E. *Compensation.* No compensation shall be paid to the Board for its services. However, any Director may be reimbursed for his actual expense incurred in the performance of his duties, as long as such expense received approval of the Board and is within the approved Association budget.

SEC. 4. *Nomination and election of the board*—A. *Nomination.* Nomination for election to the Board of Directors (other than for filling of vacancies under section 3. C.) shall be made by the Nomination Committee; provided, however, that nominations may also be made from the floor at the annual meeting by motion properly made and seconded, or by a petition which states the name of the person nominated, is signed by members representing at least ten votes, and is filed with the Secretary not later than the day prior to the annual meeting. Persons nominated must be members of the Association.

B. *Election.* Election of the Board of Directors shall be in accordance with Section 3. E., and by secret written ballot. The ballots shall be prepared by the Secretary. Cumulative voting is not permitted (that is, a voter who

[1] Each group shall be one-third of the total number of Directors.

refrains from voting with respect to one or more vacancies may not on that account cast any extra vote or votes with respect to another vacancy). The persons receiving the largest number of votes shall be elected.

SEC. 5. *Meetings of Directors*—A. *Regular meetings.* Regular meetings of the Board of Directors shall be held monthly at such time and hours as may be fixed from time to time by resolution of the Board. Notice of time and place of the meetings shall be mailed to each Director no later than seven days before the meeting.

B. *Special meetings.* Special meetings of the Board of Directors shall be held when called by the President of the Association, the Chairman of the Board or by any two Directors, after not less than three days notice to each Director.

C. *Quorum.* A simple majority of the Board shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Board present at a duly held meeting shall be regarded as an act of the Board.

D. *Action taken without a meeting.* Any action which could be otherwise taken at a Board meeting may be taken in the absence of a meeting, by obtaining the written approval of all Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board.

SEC. 6. *Power and duties of the Board of Directors*—A. *Power and duties generally.* The Board of Directors shall have and exercise all the powers, duties, and authority necessary for the administration of the affairs and to carry out the purposes of the Association, excepting only those acts and things as are required by law, by the Articles of Incorporation, or by these By-Laws to be exercised and done by the members or their officers.

B. *Powers.* The Board shall have the power to: (1) adopt and publish such rules and regulations as are appropriate in the exercise of its powers and duties, including but not limited to rules and regulations governing the amount and payment of dues, use of common areas and facilities and the conduct of the members and their guests thereon, and the establishment of penalties for violation of such rules and regulations; (2) appoint or designate officers, agents, and employees, and make such delegations of authority as in its judgment are in the best interest of the Association; (3) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from at least three consecutive regular meetings of the Board of Directors.

C. *Duties.* It shall be the duty of the Board of Directors to: (1) Cause to be kept a complete record of all its acts and Association affairs, and to present a statement thereof to the members at the annual meeting, or at any special meeting when such statement is requested in writing by members representing at least one-fifth of the votes of the Association; (2) cause to be prepared an annual audit of the Association books to be made at the completion of each fiscal year; (3) cause to be supervised all officers, agents, and employees of the Association; and see that their duties are properly performed; (4) procure and maintain adequate liability and hazard insurance on any property owned by the Association; (5) cause such officers or employees having fiscal responsibilities to be bonded as the Board may deem appropriate; (6) cause to be performed the functions listed in Article V of the Articles of Incorporation.

SEC. 7. *Association officers and their duties*—A. *Election.* The Board of Directors shall elect the following officers of the Association: a President, a Vice President, a Secretary, a Treasurer, and such other special officers as, in the opinion of the Board, the Association may require. The President and Vice President shall be elected from members of the Board. The election of officers shall take place biennially at the first meeting of the Board of Directors following the annual meeting of the members.

B. *Term.* The officers shall hold office for two years unless they shall resign sooner, be removed, or otherwise be disqualified to serve; provided, however, that special officers shall hold office for such period as the Board may determine, but not to exceed one year.

C. *Removal and resignation.* Any officer may be removed from office, for cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

D. *Vacancies.* A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

E. *Multiple Officers.* No person shall simultaneously hold more than one of the offices required by these By-Laws.

F. *Duties.* The duties of the officers are as follows:

(1) *President.* The President shall preside at all Association meetings; shall excute the orders and resolutions of the Board; shall sign all leases, mortgage, deeds, and other written instruments; and shall cosign with the Treasurer all checks and promissory notes.

(2) *Vice President.* The Vice President shall act in place and stead of the President in the event of his absence or disability and shall exercise and discharge such other duties as may be required of him by the Board.

(3) *Secretary.* The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Association; shall keep the corporate seal of the Association and affix it on all papers requiring said seal; shall serve notice of the meetings of the Board and of the Association; shall keep appropriate current records showing the names and addresses of the members of the Association; and shall perform such duties as may be required by the Board.

(4) *Treasurer.* The Treasurer shall receive and deposit in appropriate bank accounts all funds of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall cosign with the President all checks and promissory notes of the Association; shall keep proper books of account; and shall prepare an annual budget and statement of income and expenditures which shall be approved by the Board before presentation to the Association at its regular annual meeting, and furnish a copy to each of the members.

(5) *Special officers.* Special officers shall have such authority and perform such duties as the Board may determine.

(6) *Compensation.* Officers may not be compensated except as may be determined by the Board, in accordance with the approved Association budget.

SEC. 8. *Committees.*—A. *Committees to be established.* The Board of Directors shall establish the following committees:

(1) *Representation Committee* which shall represent members, individually and collectively, with respect to: any deficiencies in the Development or the individual Homes therein; fulfillment of the construction contract and related warranties; relationships with the Authority and others in regard to financial matters such as monthly payments, credits to and charges against reserves, settlement upon vacating the home, and acquisition of ownership; matters pertaining to project management; and matters in the Authority's official grievance mechanisms.

(2) *Rules Committee* which shall present to the Board for recommendation to the Authority policies for operation and management and, where appropriate, assist the Board in establishing Association rules in that respect.

(3) *Homeownership Committee* which shall advise and assist members in regard to maintenance and acquisition of ownership of their homes, financial matters and other matters related to homeownership and home management.

(4) *Selection Committee* which shall recommend proposed homebuyers from a list of eligible applicants.

(5) *Nominating Committee* which shall consist of a chairman, who shall be a member of the Board of Directors, and two or more members of the Association, none of whom are Directors. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies to be filled.

B. *Other committees.* The Board may establish other committees, permanent or temporary, which it deems necessary or desirable to carry out the purposes of the Association.

C. *Committee Chairman and Members.* The chairmen of all committees, except the Nominating Committee, shall be appointed by and serve at the pleasure of the President. Committee members shall be appointed by the chairman of the committee on which they are to serve and shall serve until a new chairman is appointed.

D. *Committee Reports.* The chairman of each committee shall make a report to the President in writing of committee meetings and activities prior to each regular monthly meeting of the Board of Directors.

E. *Authority.* Unless specifically authorized in writing by the Board of Directors or the President, a committee chairman or a committee shall have no authority to legally obligate the Association or incur any expenditure on behalf of the Association.

SEC. 9. *Suspension of rights.* The Board may suspend, by a majority vote of the Board, the voting rights and rights to use the recreational facilities, of a member, and his family and guests, during any period in which the member shall be in default in the payment of any dues or assessment imposed by the Association. Such rights may also be suspended, after notice and hearing, for a period not to exceed sixty days, for violation of the Association's rules and regulations.

SEC. 10. *Books and records.* The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member.

SEC. 11. *Amendments.* Amendments to these By-Laws may be introduced and discussed at any annual or special meeting of the Association, provided that copies of any proposed amendment shall be mailed to all the members with the notice of the meeting at which such amendment will be introduced. A vote on adopting such amendment

shall be taken at the first Association meeting held at least two weeks subsequent to the meeting at which the amendment was introduced. Amendments shall be adopted by a vote of a majority of the members of the Association.

SEC. 12. *Corporate seal.* The Association shall have a seal which shall appear as follows: [SEAL]

SEC. 13. *Fiscal year.* The first fiscal year of the Association shall begin on the date of incorporation and shall end on the last day of _____. Each successive fiscal
(month, year)
year shall begin on the first day of _____
(month)
and end on the last day of _____.
(month)

The foregoing By-Laws were adopted at the first annual meeting of the Association held _____ by the undersigned members of the Association.

APPENDIX II

RECOGNITION AGREEMENT BETWEEN LOCAL HOUSING AUTHORITY AND HOMEBUYERS ASSOCIATION

Whereas the _____ ("Authority"), a public body corporate and politic, has developed or acquired with the aid of loans and annual contributions from the Department of Housing and Urban Development ("HUD"), the following Development or Developments in its homeownership opportunity program (hereinafter referred to as the "Development"): [1]

_____
_____
_____

Whereas, an organization of residents ("Homebuyers") is an essential element in such Development for purposes of effective participation of the Homebuyers in the management of the Development and representation of the Homebuyers in their relationships with the Authority, and for other purposes; and

Whereas the _____ Homebuyers Association ("Association") fully represents the Homebuyers of the Development;

Now, Therefore, this agreement is entered into by and between the Authority and the Association and they do hereby agree as follows:

1. The Association, whose Articles of Incorporation are attached hereto and made a part hereof, is hereby recognized as the established representative of the Homebuyers of the Development and is the sole group entitled to represent them as tenants or Homebuyers before the Authority;

2. For each fiscal year, the Authority shall make available funds to the Association for its normal expenses, in such amounts as may be available to the Authority for such purposes and subject to whatever applicable HUD regulations;

3. The Association shall be entitled to the use of office space in _____ at the Development without charge by the Authority for such use;

4. The Authority and the officers of the Association shall meet at a location convenient to both parties on the _____ (day) of each month to discuss matters of interest to either party;

5. In the event the parties later agree that the Association should assume management responsibilities now held by the Authority, a contract for such purpose will be negotiated by the Authority and the Association;

6. This agreement shall terminate upon dissolution of the Association.

IN WITNESS WHEREOF, the parties have executed this Agreement on _____, 19—.

Local Housing Authority
By _____
(Official Title)
Homebuyers Association
By _____
(Official Title)

WITNESSES:
_____
_____

[1] List here the specific Development or Developments whose Homebuyers are represented by the Homebuyers Association with which this Agreement is entered into.

[FR Doc.73-21329 Filed 10-5-73;8:45 am]